IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Civil No. 09-20423 MC - GOLD

UNITED STATES OF AMERICA,

Petitioner,

v.

UBS AG,

Respondent.

McALILEY

DECLARATION OF DANIEL REEVES

Daniel Reeves, pursuant to 28 U.S.C. § 1746, declares:

1. I am a duly commissioned Internal Revenue Agent and Offshore Compliance Technical Advisor employed in the Small Business/Self Employed Division of the Internal Revenue Service. I am assigned to the Internal Revenue Service's Offshore Compliance Initiative. The Offshore Compliance Initiative develops projects, methodologies, and techniques for identifying US taxpayers who are involved in abusive offshore transactions and financial arrangements for tax avoidance purposes. I have been an Internal Revenue Agent since 1977, and have specialized in offshore investigations since 2000. As a Revenue Agent, I have received training in tax law and audit techniques, and have received specialized training in abusive offshore tax issues. I also have extensive experience in investigating offshore tax matters.

2. Under the authority of 26 U.S.C. § 7602, 26 C.F.R. § 301.7602-1, and Internal Revenue Service Delegation Order No. 4 (as revised), Revenue Agent Arthur S. Brake is authorized to issue administrative summonses.

3. UBS AG is a Swiss Bank with offices in more than fifty countries, including the United States, where it has 437 offices. Among other services, UBS provides private banking services to extremely wealthy US taxpayers, including individuals whose net worth exceeds $1 billion. Unless otherwise indicated, all references in this Declaration to "UBS" or "UBS AG" refer to those offices located, or those employees based, in Switzerland.

4. In my capacity as a Revenue Agent, I am conducting an investigation to determine the identities of US taxpayers who have violated the Internal Revenue Code by failing to report the existence of, and income earned in, undeclared Swiss accounts with UBS.

5. On July 1, 2008, this Court granted a petition filed by the United States for leave to serve a "John Doe" summons on UBS, under the authority of 26 U.S.C. §7609(f).

6. On July 21, 2008, in furtherance of my investigation, Revenue Agent Brake issued a "John Doe" summons to UBS AG. On that same day, Revenue Agent Brake served that summons on UBS by handing a copy to James Dow, Director and Head of Compliance for UBS in Miami, Florida as reflected on the reverse side of the summons. A copy of the summons is attached as Ex. 1.

7. The summons describes the "John Doe" class as:

> United States taxpayers, who at any time during the years ended December 31, 2002 through December 31, 2007, had signature or other authority (including authority to withdraw funds; to make investment decisions; to receive account statements, trade confirmations, or other account information; or to receive advice or solicitations) with respect to any financial accounts maintained at, monitored by, or managed through any office in Switzerland of UBS AG or its subsidiaries or affiliates in Switzerland and for whom UBS AG or its subsidiaries or affiliates (1) did not have in its possession Forms W-9 executed by such United States taxpayers, and (2) had not filed timely and accurate Forms 1099 naming such United States taxpayers and reporting to United States taxing authorities all payments made to such United States taxpayers.

8. The summons directed UBS to appear at 10:00 a.m. on August 8, 2008, to give testimony and produce for examination certain books, papers, records, or other data as described in the summons.

9. UBS failed to appear at the time and place required in the summons. To date, it has failed to comply in full with the summons.

10. Except as otherwise indicated in this Declaration, the books, records, papers and other data sought by the summons are not already in the possession of the IRS.

11. The testimony, books, records, papers, and/or other data sought by the summons will reveal the identities of US taxpayers who did not disclose the existence of their Swiss accounts to the IRS, and who may not have reported to the IRS income related to those accounts.

12. The identities of the "John Does" are unknown. Accordingly, the IRS does not know whether there is any "Justice Department referral," as that term is defined by 26 U.S.C. § 7602(d)(2), in effect with respect to any unknown "John Doe" for the years under investigation.

13. All administrative steps required by the Internal Revenue Code for issuance of the summons have been followed.

I. THE SUMMONS SATISFIES THE POWELL REQUIREMENTS

A. The Internal Revenue Service Issued the Summons for a Legitimate Purpose

14. US taxpayers are required to file annual income tax returns with the IRS, disclosing the existence of, and reporting any income earned from, foreign financial accounts. Taxpayers who fail to make these disclosures on their income tax returns have failed to comply with internal revenue laws. Many US taxpayers have long employed offshore accounts in countries with strict banking secrecy laws (such as Switzerland) as a means to conceal assets and

income from the IRS. This conduct has deprived the United States Treasury of untold billions of dollars in unpaid taxes.

15. Thus far, my investigation has revealed that many US taxpayers concealed their assets in this manner by using secret UBS Swiss bank accounts. UBS describes the secret accounts maintained for its US customers as "undeclared accounts." By using such undeclared accounts, these US taxpayers have violated internal revenue laws requiring full disclosure of all foreign financial accounts and all income. These US taxpayers are the focus of my investigation.

16. UBS, the summoned party, is a Swiss bank that collaborated with many US taxpayers to establish offshore accounts, and actively conceal those accounts from the IRS. UBS has helped these US taxpayers violate US laws by failing to report the existence of foreign bank accounts under their ownership or control, and failing to report and pay US income taxes on income earned in those accounts. The IRS seeks documents from UBS that would identify and help the IRS to investigate these US taxpayers.

B. The Summoned Information May Be Relevant to the Internal Revenue Service's Legitimate Purpose for Issuing the Summons

17. The information sought by the summons may be relevant to the IRS's investigation of the "John Does." The summoned materials include:

- documents identifying each US taxpayer within the "John Doe" class, as well as any documents pertaining to any offshore entities used to hide the true beneficial owner of undeclared accounts. These documents are necessary to identify US taxpayers involved in this scheme, as well as any entities that may have been used to conceal the true owners' identities;

- documents reflecting any activity in the undeclared accounts. This information could aid in the determination of taxable income;

- documents identifying relationship managers for each US taxpayer. Relationship managers may be found within the United States and would be subject to questioning by the IRS. Relationship managers may know more about why and how the US taxpayers formed and concealed their Swiss accounts from the IRS;

- documents relating to the creation of the undeclared accounts and any foreign entities used to conceal such accounts. These documents will further reveal precisely how US taxpayers conducted their affairs to avoid compliance with internal revenue laws, and may reveal whether funds transferred to the accounts had previously been taxed;

- documents pertaining to the referral of each US taxpayer interested in offshore accounts from UBS offices in the United States to UBS offices in Switzerland. These documents will demonstrate the identity of the US taxpayers, the types of products and services provided by UBS, as well as UBS's referral process, and may reveal facts pertaining to the source of the funds in the offshore accounts and the potential liability of the US taxpayers for penalties; and,

- documents related to any domestic bank accounts held by US taxpayers in the "John Doe" class. This information may establish the existence of a related offshore account, may establish the taxability of funds in the offshore accounts, and may additionally uncover potential collection sources for any taxes that may be assessed.

C. <u>The Summoned Information Is Not Already in the Government's Possession</u>

18. UBS has provided to the IRS a list of 323 US accounts used to send or receive wire transfers to or from UBS Swiss accounts held in the same name, as well as related account statements for 57 of the 323 US accounts. UBS provided these names and account numbers after the United States requested that UBS search for wire transfers between accounts within the United States and accounts in Switzerland. UBS produced only US-based records, and did not produce any Swiss-based records for these accounts.

19. The IRS also has possession of the following documents:

- six client-specific binders, each relating to one particular member of the "John Doe" class. Those binders do not identify any of the clients to whom the accounts relate, as UBS redacted all client-identifying information from the documents before producing them to the IRS. UBS provided those binders to the IRS as examples of types of documents in its possession;

- documents provided by Bradley Birkenfeld, a former director in the private banking division of UBS, during an interview that I conducted on October 12, 2007; and

- documents provided by UBS through the Swiss Banking Commission, with client-identifying information redacted.

20. On July 16, 2008, the United States made a formal request to the Swiss Government for records pursuant to the Convention between the United States and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income ("Treaty Request"). Thus far no records have been produced in response to the Treaty Request. The Declaration of Barry Shott explains the present status of the Treaty Request.

D. The Summons Meets All Administrative Requirements

21. All procedures required by the Internal Revenue Code, as amended, were followed with respect to the summons.

II. UBS HAS ASSISTED ITS US CLIENTS IN THE "JOHN DOE" CLASS TO ESTABLISH AND MAINTAIN "UNDECLARED" ACCOUNTS, AND TO CONCEAL THOSE ACCOUNTS FROM US AUTHORITIES.

A. A Congressional Investigation Concluded UBS has Engaged in Conduct that Assisted US Taxpayers to Violate US Law With Impunity.

22. Following an investigation, in 2008 the Permanent Subcommittee on Investigations of the United States Senate Committee on Homeland Security and Governmental Affairs (PSI) issued a report entitled "Tax Havens and U.S. Tax Compliance" ("Tax Haven Report"). The portion of the Tax Haven Report dealing with UBS, pp. 80-110, is attached as Ex. 2. In the Tax Haven Report, the PSI concluded that, from at least 2000 to 2007, UBS directed its Swiss bankers to target US clients willing to open bank accounts in Switzerland. According to the Tax Haven Report, "In 2002, UBS assured its U.S. clients with undeclared accounts that U.S. authorities

would not learn of them, because the bank is not required to disclose them; UBS procedures, practices and services protect against disclosure; and the account information is further shielded by Swiss bank secrecy laws." (Ex. 2 at 83) The report also noted:

a. "Until recently, UBS encouraged its Swiss bankers to travel to the United States to recruit new U.S. clients, organized events to help them meet wealthy U.S. individuals, and set annual performance goals for obtaining new U.S. business." (Id.)

b. "[UBS] also encouraged its Swiss bankers to service U.S. client accounts in ways that would minimize notice to U.S. authorities. The evidence suggests that UBS Swiss bankers marketed securities and banking products and services in the United States without an appropriate license to do so and in apparent violation of U.S. law and the bank's own policies." (Id.)

c. Between 2000 and 2007, UBS opened "tens of thousands of accounts in Switzerland that are beneficially owned by U.S. clients, hold billions of dollars in assets, and have not been reported to U.S. tax authorities." The report notes that although these accounts were owned by US taxpayers, the account owners did not file Forms W-9 identifying themselves as the owners, and the bank did not file Forms 1099 reporting the earnings on those accounts to the IRS. The bank refers to these accounts as "undeclared accounts." (Ex. 2 at 83-84).

d. UBS officials told the PSI in 2008 that UBS maintains accounts in Switzerland for about 20,000 US clients, and that only about 1,000 of those accounts have been "declared" to the US authorities. According to UBS, the 19,000 US clients with undeclared accounts hold about $18 billion in undeclared assets. (Ex. 2 at 84).

e. UBS recognized that US taxpayers "may have a legal obligation to report a foreign trust, foreign bank account, or foreign income to the IRS." (Ex. 2 at 87).

B. UBS Internal Documents Show that UBS Systematically Maintained a Significant and Ongoing Presence in the United States.

23. In a December 2004 internal report, UBS estimated that in the "last year," 32 different UBS Client Advisors traveled to the United States on business. "On average, each Client Advisor visited the US for 30 days per year, seeing 4 clients per day. This means that approximately 3,800 clients are visited in the US per year by [Wealth Management and Business Banking] Client Advisors based in Switzerland." (Ex. 3 at U00006000)

24. In that same report, UBS estimated that it had approximately 52,000 undeclared "account relationships" with US taxpayers, containing assets valued at 17 billion CHF (Swiss Francs), the equivalent of about $14.8 billion at the time. (Ex. 3 at U00005994) About 32,940 of those undeclared accounts contain only cash, while the remaining 20,877 accounts contain at least some securities. Although there are more cash accounts than securities accounts, the securities accounts held approximately 39 times the amount of assets in the cash accounts. (Ex. 4 at U00006029).

C. UBS Assisted its US Customers in Avoiding their Reporting Obligations Under US Law, by Counseling Them to Sell their US Holdings and by Helping Them Establish Sham Offshore Ownership Entities to Avoid UBS's Obligations Under the QI Program.

25. US taxpayers who control cash-only accounts have a legal obligation to disclose the existence of those accounts to the IRS, and to report any income earned in those accounts on their annual income tax returns. US taxpayers who control securities accounts must also disclose to the IRS their accounts that contain securities. For accounts containing US securities, however,

UBS and the IRS entered into a Qualified Intermediary Agreement (QI Agreement, See Shott Declaration) that required UBS to procure Forms W-9 from its US clients. The Forms W-9 provided UBS with the information necessary for it to file Forms 1099 with the IRS reporting income paid on the offshore accounts. Thus, the QI Agreement should have enabled the IRS to learn directly from UBS the identities of US taxpayers holding US securities accounts at UBS. As explained in greater detail in the following section, this did not happen.

26. UBS and its US clients knew that it violated US law for US taxpayers to maintain undeclared accounts with UBS in Switzerland – whether the accounts held cash or securities. In fact, UBS had its undeclared account holders complete a boilerplate declaration swearing that they were aware that their relationship with UBS could have legal ramifications. In the declaration's original form, attached hereto as Ex. 5, a client was required to state that he is "liable to tax in the USA as a US person." (Ex. 5 at U00014257).

27. As originally presented to clients, the boilerplate declaration required the client to state, ***"I would like to avoid disclosure of my identity to the US Internal Revenue Service . . ."*** (Emphasis added) (Id.). According to a UBS internal e-mail, many US taxpayers refused to sign the declaration since it "fully incriminates a US person of criminal wrongdoing should this document fall into the wrong hands." As a result of those complaints from its US clients, UBS revised the form to state simply that the client "consent[s] to the new tax regulations." (Ex. 6)

28. As explained in greater detail in the Declaration of Barry Shott, in 2001 UBS entered into a Qualified Intermediary (QI) Agreement with the IRS. As described in greater detail below, UBS systematically violated and circumvented its obligations under the QI Agreement, all in order to help its US clients conceal from the IRS their Swiss accounts at UBS.

29. According to former UBS private banker, Bradley Birkenfeld, UBS recognized that its entry into the QI Agreement could damage its US business, as its responsibilities under the QI Agreement could defeat the purpose of many US taxpayers in opening their offshore accounts in the first place. (Ex. 7 at 3).

30. The Tax Haven Report concluded that soon after entering into the QI Agreement UBS, "took steps to assist its U.S. clients to structure their Swiss accounts in ways that avoided U.S. reporting rules under the QI Program." (Ex. 2 at 87)

31. One way that UBS proposed its US customers could avoid disclosing their Swiss accounts to the IRS was for the customer to liquidate all US securities from those accounts, and block the accounts from acquiring US securities in the future. (Ex. 5, p. U00014257) This would enable US customers to continue to trade non-US securities in their Swiss accounts, with the assurance that UBS would not disclose their accounts to the IRS.

32. Another option proposed by UBS was to make it appear as though non-US taxpayers were the actual beneficial owners of these accounts, thereby enabling UBS to forgo reporting any income from those accounts to the IRS. UBS and its clients achieved this result by helping their US clients to arrange for the undeclared accounts to be listed as owned by foreign corporations or other entities that were, in fact, shams. In truth, the accounts were owned and controlled by US taxpayers. These clients, with UBS's knowledge and active assistance, failed to prepare IRS Forms W-9 declaring themselves as US taxpayers and providing the information necessary for UBS to report their income to the IRS. Then, with UBS's knowledge and assistance, these US taxpayers prepared false and misleading IRS Forms W-8BEN ("Certificate of

Foreign Status of Beneficial Owner for United States Tax Withholding"), reporting that their sham entities actually owned the accounts.

33. UBS understood that this "structured solution" could violate US tax laws, as well as its obligations under the QI Agreement. In a memorandum discussing the effect of the QI Agreement on UBS's servicing of US taxpayers, a UBS official explained that:

> . . . we cannot recommend products (such as the use of offshore companies . . .) to our clients as an 'alternative' to filing a Form W-9. This could be viewed as actively helping our clients evade US tax, which is a U.S. criminal offence. Further, such recommendations could infringe upon our Qualified Intermediary status, if, on audit in 2003, it is determined that we have systematically helped US person (sic) to avoid the QI rules. What we can do is suggest that clients seek external professional advice and offer them a choice of approved service providers, if they request it.

(Ex. 8 at U00014262). Thus, UBS acknowledged that it could be helping its US clients to commit tax crimes, if its officials recommended that its US clients use offshore entities in order to prevent disclosure of their identity.

34. In effect, UBS made precisely that recommendation, when it gave its US customers a list of "approved service providers." UBS expected those providers to recommend how its US customers could avoid detection by US tax authorities, by having their UBS accounts held in the name of dummy offshore entities. To determine which service providers to recommend, on August 17, 2004, six UBS officials met to review presentations from competing service providers who were invited, "to make a short presentation on the structures/vehicles that you recommend to U.S. and Canadian clients who do not appear to declare income/capital gains to their respective tax authorities." (Ex. 9)

35. UBS went farther to advance this plan. In a document found on its website, "Qualified Intermediary System: US withholding tax on dividends and interest income from US

securities" (last visited June 18, 2008), UBS counsels clients who wish to hold their accounts through simple trusts:

> While the main issue concerning [offshore entities] is whether they really are companies and also whether they really are the beneficial owner of the assets as defined by US tax law (facts which can be confirmed using the appropriate forms), ***the basic problem with trusts and foundations is that US tax law tends to regard them as transparent intermediaries with corresponding disclosure obligations***. (Emphasis added).

(Ex. 10 at 3). For those clients who wish to continue holding their accounts through such trusts and foundations but who also wish to avoid the "corresponding disclosure obligations," the document suggests, in relevant part, as follows (emphasis added):

> [I]f there is no desire to disclose the identities of either the bank's contracting partner or the beneficial owner to the US tax authorities, the possible alternatives are for US securities to be excluded from the portfolio, for the beneficial owner to hold them directly, ***or for a structure to be put in place between the foundation/trust and the bank*** which itself serves as an independent, non-transparent beneficial owner (e.g. a legal entity/corporation/company) and ***submits documentation to the QI to this effect***.

(Ex. 10 at 3).

36. As noted above, UBS acknowledged that it would be illegal to recommend that its US customers use offshore entities to avoid their US reporting obligations. Nonetheless in 2004, on its own initiative, UBS planned to create approximately 900 offshore corporations for its largest US customers – those holding UBS accounts with asset balances exceeding 500,000 CHF. It intended to create 650 such dummy corporations for customers it could not contact by October 31, 2004, and another 250 dummy corporations for customers it could contact, and who UBS expected would employ these dummy corporations to hide their Swiss accounts from the IRS. (Ex. 11, U00005303)

37. Although UBS unabashedly recommended that its clients use nominee entities to circumvent the QI Agreement – and, accordingly, violate US tax laws – the bank remained concerned that US authorities would discover this scheme. At one point, UBS received word of a possible undercover IRS investigation into UBS's compliance with the QI Agreement. Though a UBS official expressed "doubts" as to the veracity of the report, he nevertheless admonished that the bank should "be on the safe side" and instructed client advisors "to be prudent in first time clients re QI, possible structures etc. mentioning of solutions only to clients which we already know since some time." (Ex. 12 at U00007530)

38. The documents compiled at Exhibit 13 demonstrate the precise way that UBS and its clients used to structure these accounts, in the following sequence:

a. A US taxpayer directly holds a "predecessor account" with UBS which, in this example, had been opened in 1985. (U00000816-817)

b. In 2000, shortly before the QI Agreement was to take effect, the US taxpayer formed an overseas nominee corporation, which formally resolved to open a new Swiss account with UBS. (U00000854 and 857)

c. Following its formation, the offshore entity opened a new, separate account with UBS. (U00000858-859)

d. As part of the account opening process, UBS had the US taxpayer complete an internal UBS form entitled "Verification of the beneficial owner's identity," for the newly-opened account. (Even though the new account was ostensibly opened by the overseas entity, this particular form confirmed for UBS's internal purposes that, in fact, the beneficial owner was the US taxpayer.) (U00000863)

e. The US taxpayer then executed a Form W-8BEN representing that the oversees entity was the beneficial owner for IRS purposes. In this important respect, the Form W-8BEN directly contradicted the UBS form "Verification of the beneficial owner's identity." Thus, UBS maintained its own form identifying the actual beneficial owner of the account – the US taxpayer – while simultaneously accepting a fraudulent Form W-8BEN. (U00000865)

f. UBS relied on the knowingly fraudulent Form W-8BEN to avoid reporting the true ownership of the account to the IRS.

39. UBS used this procedure to help Igor Olenicoff hide from the IRS his beneficial ownership of undeclared accounts, thereby helping him to evade approximately $7.2 million in US income taxes, as described more fully in ¶ 59 below.

D. UBS Took Affirmative Steps to Prevent the United States Government from Discovering its Violations of US Securities and Tax Laws.

40. Except for two subsidiaries that UBS established in London (UBS Investment Advisors Ltd., Ex. 14) and in Switzerland (UBS Swiss Financial Advisors, AG, Ex. 3 at U00005996) to provide investment advisory services to US customers who had submitted Forms W9, UBS's offices and affiliates located outside of the United States are not licensed by the Securities and Exchange Commission ("SEC") to provide broker/dealer services to US taxpayers. (Ex. 15 at U00013486).

41. According to an internal UBS document, because it is not an SEC-licensed broker, UBS may not establish or maintain "relationships for securities services" with US taxpayers if doing so requires communicating with the client by using US jurisdictional means, which UBS defined as "telephone, mail, e-mail, advertising, the internet or personal visits into the United States." (Ex. 15 at U00013487). As further explained in a UBS memo:

> Many of the core PB ["Private Banking"] services provided by UBS to U.S. persons out of Switzerland are problematic due to the very restrictive approach the U.S. regulatory regime takes with regard to permissible cross-border activities. (Ex. 16 at U00007121).

42. In the Tax Haven Report, the PSI concluded, "UBS Swiss bankers marketed securities and banking products and services in the United States without an appropriate license to do so and in apparent violation of U.S. law and the bank's own policies." (Ex. 2 at 83).

43. In its internal documents, UBS acknowledged that accepting cross-border trades with its US clients would violate US securities law. And yet, despite knowing such trading violated US law, UBS was committed in "exceptional circumstances" to accepting such cross-border trades (Ex. 17 at U00013755). Those cross-border services earned $200 million per year in profit for UBS. (Ex. 7 at 3, Ex. 28 at ¶ 4).

44. Not only did UBS Client Advisors conduct business in person within the United States. UBS also conducted its cross-border business through telephone, facsimile and e-mail.

45. In one case, a UBS Client Advisor went so far as to conceal UBS's cross-border securities trading through the use of an elaborate code. In one report, the Advisor recounts a "new code to facilitate discreet email contacts" created by his client, with the following translation key:

> EUR = orange
> USD = green
> GBP = blue
>
> 100K = C
> 250K = 1 nut
> 1 M = a swan

The meeting report then proceeds to use code as follows: "The [REDACTED] are all comfortable: about 2.5 orange nuts @13710 (3%) and about 2.05 green nuts @13270 (12%). All clear?"

Using the key, the client requested a purchase of 625,000 euros @13710(3%) and about 512,500 US dollars at @13270(12%). (Ex. 18)

46. UBS acknowledged that maintaining both an actual and a virtual presence in the United States was critical to building and sustaining its US business. One UBS study concluded that either discontinuing the use of telephone and e-mail to provide "investment advice," or banning US travel, would be tantamount to UBS's "virtual/real exit" from the US market. (Ex. 19 at U00005989).

47. UBS maintains a "Risk Committee" as part of its organizational structure. The Risk Committee identifies, assesses, and makes recommendations regarding the risks associated with the bank's various activities. In 2004, the Risk Committee concluded, "the key risk arises from UBS AG in Switzerland being a non-SEC registered entity communicating with such clients in (or into) the US concerning securities." (Ex. 3 U00005995).

48. In a 2004 training session, UBS acknowledged that its cross-border brokerage services could trigger the United States' "broad subpoena powers [or] long-arm jurisdiction rules." (Ex. 20 at U00006011). In another document. UBS noted that its actions could also mean the "[l]oss of QI status and of US banking license," and that it could also result in the imposition of fines or penalties. (Ex. 4 at U00006019).

49. As early as 1999, UBS recognized that its activities in the United States violated US law. In a 1999 memorandum to UBS "Legal PB" (Private Banking) in Basel, UBS "Legal PB" in New York advised,

> As outlined in this memo, the provision or soliciting the provision of certain services by Swiss offices of the Bank (in particular brokerage services and investment advise) entail considerable risks for the Bank, because the Bank lacks the necessary license to provide these services. The registration requirements

> come into play because such activity of the Bank has its effect on U.S. territory and is therefore subject to U.S. jurisdiction.

The memorandum concluded that the use of certain preventative measures could, "at least dramatically reduce the risk of the SEC becoming aware of the activities of the Bank in the U.S. market." (Ex. 21 at U00018275) In response to these identified risks, UBS took the following steps to mitigate the risk that US authorities would detect its illegal activities within the United States:

a. UBS first divided its US taxpayer clients into two groups: (1) those who were willing to submit Forms W-9 and have the bank file Forms 1099 reporting their earned income, and (2) those who wished to remained "undeclared."

b. UBS then created the "Cross-Border U.S. Centralization" initiative ("Centralization"). Through its Centralization, UBS consolidated the theretofore disparate administration of all undeclared accounts from the various UBS branches worldwide and transferred them to the Zurich, Geneva, and Lugano offices in Switzerland. As one UBS document described the strategy: "To comply with the US business model and to mitigate compliance, liability, and reputation risk, relations with US persons (i.e. 'W-9 and US domiciled non W-9 clients') with custody account or investment fund account **were centralized**." (Emphasis in original). (Ex. 4 at U00006025).

50. A UBS report explained it this way: "In general, US Resident Non-W9 clients are now centralised [in Switzerland] . . . The aim of the centralisation exercise was to concentrate handling of these particularly sensitive client relationships in the area with the highest expertise." (Ex. 3 at U00005998)

51. By centralizing the administration of the undeclared US accounts, UBS could better oversee the precautionary initiatives put in place to minimize the risk of detection by US authorities (Ex. 4 at U00006019).

52. As another step in its Centralization, UBS created Swiss Financial Advisors ("SFA"), an SEC-registered broker/dealer, to provide securities services within the United States for those US taxpayers who chose to disclose the existence of their accounts. SFA allowed UBS to provide services to its declared US clients through a separate, legally registered affiliate. UBS saw this as a risk-mitigating measure because, **at least with regard to its declared US accounts**, this brought UBS into compliance with the QI Agreement and with applicable US securities laws. (Ex. 4 at U00006019).

53. SFA achieved another important goal, purportedly removing its securities business from the United States. Before UBS created SFA, UBS was concerned that providing services to its US clients holding declared Swiss accounts could result in an "[i]ncreased chance that UBS AG is treated like any other U.S. provider, which means that there is higher litigation risk." (Ex. 22 at U00010833). Thus, UBS concluded that "a separate legal entity [to service the W-9 accounts] is the only way to achieve SEC compliance without having UBS AG under U.S. jurisdiction." (Id. at U00010845). Acknowledging that UBS is "not a U.S. licensed company," the report explained that "[i]n the many decades UBS AG has been serving U.S. clients this issue has not surfaced as UBS did not file with the IRS and has therefore not had any direct relationship to any U.S. official body." (Id. at U00010833). With declared clients, however, such contact with the IRS would be necessary, and UBS wanted to insulate its undeclared clients from the consequences of its forthcoming interaction with the IRS. In other words, the centralization plan

allowed UBS to provide services to all its US clients, without having its services for the declared account holders shed light on its services for the undeclared account holders. This enabled UBS to continue, with reduced risk, to conceal from the IRS the identities of its undeclared account holders.

54. At the conclusion of its Centralization, UBS had consolidated all of its undeclared accounts under the auspices of the Swiss offices, while placing the administration of its transparent, tax-compliant accounts with the new, SEC-registered affiliate, SFA.

55. After it had consolidated the administration of all of its undeclared accounts, UBS then took further precautionary measures designed to mitigate even further the risk that US authorities would learn of its illegal activities and its undeclared US account holders. These measures included:

a. UBS trained its Client Advisors who traveled to the United States, teaching them to take care when traveling to the United States on business:

- Client advisors were advised to have an explanation prepared for the purpose of their trip when entering the United States. (Ex. 23 at U00011454). Birkenfeld reports that UBS had actually encouraged its client advisors to lie on customs forms by representing that they were "traveling into the United States for pleasure and not business." (Ex. 7 at 2). In the Tax Haven Report, the PSI found that on about half of their business trips to the United States, UBS Client Advisors falsely reported on Forms I-94 that they were traveling to the United States for pleasure when, in fact, they were traveling to the United States to provide services to US holders of undeclared UBS accounts. (Ex. 2, pp. 103-104)

- Client advisors were advised to keep an irregular hotel rotation. (Ex. 23 at U00011454).

- Travel laptops were to have a generic UBS power point presentation to show to US authorities in the event of a border search. (Ex. 24 at U00011460).

- Client advisors were warned that the United States Government uses various systems to monitor telephone, facsimile, electronic mail, and other communications systems. (Ex. 24 at U00011460).

- Client advisors were not permitted to bring printers into the United States to prevent them from printing statements, which could prove that a sale was deemed to have occurred on US soil, or that the client advisor "gave investment instructions on US soil." (Id.).

- Client advisors were advised to maintain a "clear desk policy" while in hotel rooms. (Ex. 25 at 5).

- In the event that a client advisor was detained and interrogated, or in the event of any other emergency, the client advisor is to contact UBS hotline that was operated 24 hours a day, 7 days a week. (Id. at 4).

b. With the clients' consent, UBS would not mail regular banking statements or trade confirmations to US taxpayers within the United States. Instead, UBS would retain those documents for the US taxpayers to pick up in person in Switzerland. (Ex. 19 at U00005979).

c. UBS also attempted to maintain its client-identifying documents in Switzerland. (Ex. 23 at U00011451). In fact, part of the Centralization initiative required that all account-opening documents not be maintained in the United States. (Ex. 3 at U00006000).

d. According to Birkenfeld, UBS had advised its US clients to "destroy all off-shore banking records existing in the United States." (Ex. 7 at 3). Birkenfeld also told the PSI that UBS client advisors often completed account documents in the United States and that "instead of saying, 'I signed it in New York,' they brought the forms back to Geneva and they put in 'Geneva.'" (Ex. 2 at 101).

56. UBS knew that it was critical to keep its activities in the United States hidden from US law enforcement. In one e-mail exchange discussing risks associated with UBS's use of

US jurisdictional means, UBS executive Martin Liechti admonished, "I think we need to take the utmost care of this issue, ***that's why I think we need to be extremely carefull*** (sic) ***with any written statement on the subject.***" (emphasis added) (Ex. 26 at U00009457). Similarly, in an e-mail exchange between UBS officials discussing the wording of minutes of a meeting between UBS Legal and UBS Compliance, one official suggested that language stating that UBS's visits to the United States are "not allowed under compliance" should be changed to say that such "behavior may however be problematic under SEC rules." (Ex. 27 at U00007587). UBS's legal counsel proceeded to note that the drafted minutes evidence, "how sensitive things get when you are writing them down." (Id. at U00007587).

57. After completing its Centralization initiative, and putting the other risk-mitigation steps in place, UBS continued to offer its products to wealthy, sophisticated US taxpayers who demanded confidentiality. A grand jury in Miami has charged that, in 2005, UBS actually set out to *increase* the volume of its cross-border services. (Ex. 28 at ¶ 38) As noted above, UBS reported that it had earned $200 million per year administering undeclared, offshore accounts for US taxpayers.

E. UBS Bankers and Customers Have Been Charged and Convicted of Crimes in Connection with Maintaining Undeclared Accounts.

58. The legal consequences of maintaining these undeclared accounts have recently resulted in criminal charges for a number of people associated with UBS's activities:

a. In 2008, a grand jury in the Southern District of Florida indicted Raoul Weil, former head of UBS's wealth management business, and since 2007 Chief Executive Officer of a division of UBS that oversaw UBS's cross-border business within the United States. The indictment charges that Weil and others conspired to defraud the United States and the

Internal Revenue Service in the ascertainment, computation, assessment and collection of federal income taxes. In particular, the indictment charges that Weil assisted some 20,000 US customers of UBS to knowingly conceal from the IRS $20 billion in assets that they held in secret accounts at UBS. (Ex. 28) The Court has declared him a fugitive from justice.

b. In 2007, former high-profile UBS client Igor Olenicoff, a California real estate developer, was charged in the Central District of California with filing false income tax returns by failing to disclose on his federal income tax returns the undeclared accounts he maintained at UBS in Switzerland. (Ex. 29). In 2007 Olenicoff pleaded guilty to one count of filing a false tax return for 2002. Olenicoff's Plea Agreement included a statement of facts which he admitted were true. Among other things, Olenicoff admitted that he had filed false income tax returns for each of the years 1998 through 2004, by failing to disclose his undeclared accounts at UBS. (Ex. 30)

c. In 2008 former UBS private banker Bradley Birkenfeld was indicted in the Southern District of Florida on one count of conspiracy to defraud the United States in violation of 18 USC § 371. The indictment charged Birkenfeld and co-conspirator Mario Staggl, a resident of Liechtenstein, with assisting UBS clients to open and maintain undisclosed accounts, and hide those accounts from the IRS, thereby enabling the US clients to evade millions of dollars in US income taxes. (Ex. 31) In June 2008, Birkenfeld pleaded guilty to conspiring to defraud the United States by helping at least one UBS client evade $7.2 million in taxes on income earned from about $200 million in assets that the client maintained in an undeclared UBS account. To support his plea of guilty, Birkenfeld agreed to a Statement of Facts, describing in detail how he and others at UBS conspired to assist thousands of US taxpayers to open, maintain, and conceal

undeclared Swiss accounts. (Ex. 7) In that Statement of Facts, among other things, Birkenfeld described in detail the steps that he, Staggl, and others at UBS took to help US taxpayers conceal the existence of undeclared accounts from the IRS. Among other things, they advised US clients to:

- place cash and valuables in Swiss safety deposit boxes;
- purchase jewels, artwork and luxury items from the UBS account while overseas;
- misrepresent the receipt of funds in the United States from their UBS account in Switzerland as loans from UBS;
- destroy all US-based records of their off-shore accounts;
- purchase goods and services with UBS-issued credit cards, which UBS officials claimed could not be discovered by US authorities.

In one instance, at the request of a US client of UBS, Birkenfeld purchased diamonds with funds from the client's undeclared UBS account, and smuggled the diamonds into the United States in a toothpaste tube. (Ex. 7, pp. 3-4)

59. Traditionally, taxpayers maintain undisclosed offshore accounts in order to conceal assets and income from the IRS. My investigation to date – and the Tax Haven Report discussed above – make clear that UBS has assisted tens of thousands of US taxpayers in the "John Doe" class to avoid the obligation to report all foreign financial accounts to the IRS, thereby helping the US taxpayers conceal from the IRS any income earned in those accounts.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed this 6th day of February 2009.

DANIEL REEVES
Revenue Agent
Internal Revenue Service

Reeves Declaration
Exhibit 1

Summons

In the matter of Tax Liability of John Does*

Internal Revenue Service (Division): Small Business/Self Employed Division

Industry/Area (name or number): South Atlantic Area

Periods: Years ending 12/31/2002, 12/31/2003, 12/31/2004, 12/31/2005, 12/31/2006, and 12/31/2007

The Commissioner of Internal Revenue

To: UBS AG

At: 701 Brickell Avenue, Suite 3250, Miami FL 33131

You are hereby summoned and required to appear before Daniel Reeves or Designee an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

See attachment

* "John Does" are United States taxpayers, who at any time during the years ended December 31, 2002 through December 31, 2007, had signature or other authority (including authority to withdraw funds; to make investment decisions; to receive account statements, trade confirmations, or other account information; or to receive advice or solicitations) with respect to any financial accounts maintained at, monitored by, or managed through any office in Switzerland of UBS AG or its subsidiaries or affiliates in Switzerland, and for whom UBS AG or its subsidiaries or affiliates (1) did not have in its possession Forms W-9 executed by such United States taxpayers, and (2) had not filed timely and accurate Forms 1099 naming such United States taxpayers and reporting to United States taxing authorities all payments made to such United States taxpayers.

Do not write in this space

GOVERNMENT EXHIBIT 1

Business address and telephone number of IRS officer before whom you are to appear:

Telephone: (609) 625-7878

Place and time for appearance at IRS, 51 S.W. First Ave., Miami, Florida 33130-1608; Telephone: (305) 982-5269

on the 8th day of August 2008 (year) at 10:00 o'clock a m.

Issued under authority of the Internal Revenue Code this 21 **day of** July 2008 (year)

IRS

Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 2039 (Rev. 12-2001)
Catalog Number 21405J

Signature of issuing officer — Revenue Agent (Title)

Signature of approving officer *(if applicable)* — Territory Manager (Title)

Original — to be kept by IRS

Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date	Time
7-21-08	11:00 a.m.

James Dow, Director & Head of Compliance

How Summons Was Served

1. ☒ I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.
2. ☐ I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): _____
3. ☐ I certify that I sent a copy of the summons, which contained the attestation required by § 7603, by certified or registered mail to the last known address of the person to whom it was directed, that person being a third-party recordkeeper within the meaning of § 7603(b). I sent the summons to the following address: _____
   701 Brickell Avenue, Suite 3250, Miami FL 33131

Signature	Title
[signature]	Revenue Agent

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: _____ Time: _____

Name of Noticee: _____

Address of Noticee (if mailed): _____

How Notice Was Given

- ☐ I gave notice by certified or registered mail to the last known address of the noticee.
- ☐ I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any).
- ☐ I gave notice by handing it to the noticee.
- ☐ In the absence of a last known address of the noticee, I left the notice with the person summoned.
- ☒ No notice is required.

Signature	Title
[signature]	Revenue Agent

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature	Title
	Revenue Agent

Attachment to "John Doe" Summons to UBS AG

1. For each financial account maintained at, monitored by or managed through any Switzerland office of UBS AG or its subsidiaries or affiliates, if, at any time during the years ended December 31, 2002 through December 31, 2007:

(A). any United States taxpayer had signature or other authority over such account;

(B). UBS AG did not have in its possession a Form W-9 executed by the United States taxpayer; and,

(C). UBS AG did not file a timely and accurate Form 1099 with United States taxing authorities;

(i). naming the United States taxpayer; and,

(ii). reporting all reportable payments made to the United States taxpayer;

please provide all account records for the period January 1, 2002, through the date of compliance with this summons, including but not limited to:

a. documents identifying each United States taxpayer by name, address, telephone number, date of birth, or taxpayer identification number;
b. documents pertaining to any foreign entities established or operated on behalf of each United States taxpayer;
c. documents identifying any relationship managers, domestic and foreign, for each United States taxpayer during the period;
d. documents pertaining to the opening of such financial accounts and/or the creation of foreign entities created for or on behalf of each United States taxpayer during the period, including, but not limited to, desk files or other records of the relationship manager, e-mails, facsimiles, memoranda of telephone conversations, memoranda of activity, and other correspondence;
e. documents, including but not limited to, monthly or other periodic statements and records of wire transactions, reflecting the activity of such financial accounts and of such financial accounts maintained in the names of any foreign entity

established or operated on behalf of each United States taxpayer; and,

f. documents pertaining to the referral of each United States taxpayer to UBS offices in Switzerland, including, but not limited to, desk files or other records of the relationship manager, e-mails, facsimiles, memoranda of telephone conversations, memoranda of activity, and other correspondence, and records of any UBS office processing such referrals, including specifically:

i. documents identifying the UBS office in Switzerland to which the referral was directed and any accounts established;
ii. documents reflecting annual or other periodic balances of accounts opened at the UBS office in Switzerland receiving the referral and any activity in such accounts; and,
iii. documents reflecting the receipt of fees by a UBS office for referral of each United States taxpayer, a UBS office servicing the United States taxpayer, or a relationship manager with respect to the referral, documents reflecting how such fees were calculated, and documents reflecting bonuses paid or evaluations given to any UBS employee with reference to such referrals.

2. Please also provide, for the period January 1, 2002, through the date of compliance with this summons, records of wire transfers, and annual account summaries or other annual statements for each domestic financial account held by any United States taxpayer (or by any foreign entity established or operated on behalf of a United States taxpayer) who, at any time during the years ended December 31, 2002 through December 31, 2007, held a Swiss UBS branch financial account with the attributes listed in Part 1(A), (B), and (C), above; or by (2) any foreign financial entity established or operated on behalf of a United States taxpayer.

3. For purposes of this summons "United States taxpayer" means any person with an address in the United States or who is known to UBS or any of its employees or agents, through its business records, anti-money laundering due diligence, or know your customer practices, or through any other means, to be a United States citizen or resident.

4. For purposes of this summons, "UBS office" means any office bearing the name UBS in whole or in part, or holding itself out to the public as part of UBS, including any office controlled by UBS AG, including but not limited to the office of the parent bank, any UBS branch office, and any subsidiary or affiliate of UBS AG.

5. For purposes of this summons, "financial account" means a bank account, securities account or other financial account of any kind.

6. For purposes of this summons, "domestic financial account" means a financial account at a financial institution doing business inside the United States.

7. For purposes of this summons, "foreign entity" means a corporation, limited liability company, international business company, personal investment company, partnership, trust, anstalt, stiftung, or other legal entity created under the laws of a jurisdiction other than the United States.

8. For the purpose of this summons, the word "documents" refers to any electronic, written, printed, typed, graphically, visually or aurally reproduced materials of any kind or other means of preserving thought or expression, recording events or activities, and all tangible things from which information can be processed or transcribed, including, but not limited to:

(A). contracts, agreements, plans, summaries, opinions, reports, commentaries, communications, correspondence, memoranda, minutes, notes, comments, messages, telexes, telegrams, teletypes, cables, facsimiles, wire instructions and electronic mail; and,

(B). video and/or audio tapes, cassettes, films, microfilm, spreadsheets, databases, computer discs and other information which is stored or processed by means of data processing equipment and which can be retrieved in printed or graphic form.

9. For the purpose of this summons, you are required to produce all documents described in this attachment, whether located in the United States, Switzerland, or elsewhere, that are in your possession, custody, or control, or otherwise accessible or available to you either directly or through other entities, including but not limited to offices of UBS AG or its

subsidiaries or affiliates (such as UBS Private Bank) in Zurich, Geneva, or Lugano. Where documents are prepared, stored or maintained in electronic form, they are required to be produced in electronic form together with any instructions, record descriptions, data element definitions, or other information needed to process them in electronic form.

Reeves Declaration
Exhibit 2

United States Senate
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
Committee on Homeland Security and Governmental Affairs

Carl Levin, Chairman
Norm Coleman, Ranking Minority Member

TAX HAVEN BANKS AND U. S. TAX COMPLIANCE

STAFF REPORT

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

UNITED STATES SENATE

RELEASED IN CONJUNCTION WITH THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS JULY 17, 2008 HEARING

SENATOR CARL LEVIN
Chairman
SENATOR NORM COLEMAN
Ranking Minority Member

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

ELISE J. BEAN
Staff Director and Chief Counsel
ROBERT L. ROACH
Counsel and Chief Investigator
ZACHARY I. SCHRAM
Counsel
LAURA E. STUBER
Counsel
ROSS K. KIRSCHNER
Counsel

MARK L. GREENBLATT
Staff Director and Chief Counsel to the Minority
MICHAEL P. FLOWERS
Counsel to the Minority
ADAM PULLANO
Staff Assistant to the Minority

MARY D. ROBERTSON
Chief Clerk

TIMOTHY EVERETT
Intern
ALAN KAHN
Law Clerk
JONATHAN PORT
Intern
JEFFREY REZMOVIC
Law Clerk
LAUREN SARKESIAN
Intern
SPENCER WALTERS
Law Clerk

Permanent Subcommittee on Investigations
199 Russell Senate Office Building – Washington, D.C. 20510
Telephone: 202/224-9505 or 202/224-3721
Web Address: www.hsgac.senate.gov [Follow Link to "*Subcommittees*," to "*Investigations*"]

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
STAFF REPORT
TAX HAVEN BANKS AND U. S. TAX COMPLIANCE

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# # #

LGT, like all banks in Liechtenstein, were "not as diligent as we should have been."[350] He declined to disclose whether the LRAB Foundation or Panama corporation had been formed in response to the clients' request.

C. Analysis

The LGT information reviewed by the Subcommittee investigation indicates that, too often, LGT personnel viewed the bank's role to be, not just as a guardian of client assets or trusted financial advisor to investors, but also a willing partner to clients wishing to hide their assets from tax authorities, creditors, and courts. In that context, bank secrecy laws begin to serve as a cloak not only for client misconduct, but also for banks colluding with clients to evade taxes, dodge creditors, and defy court orders.

It is also instructive that when the LGT tax scandal broke in February 2008, the immediate reaction of the Liechtenstein government was not to condemn the taxpayers who misused the jurisdiction, promise tough action against LGT if it knowingly assisted tax fraud, or pledge to disclose relevant information. Instead, the Liechtenstein government deplored the breach of its secrecy laws, expressed indignation that any country would purchase Liechtenstein financial data from a private individual, and issued an arrest warrant for the former LGT employee who allegedly disclosed the information.[351] In June 2008, an Internet website offered a $7 million reward for information leading to the arrest of the former LGT employee; the Subcommittee traced this reward offer to a web hosting company in Liechtenstein.[352]

In July, the Liechtenstein government advised the Subcommittee that it had initiated a special investigation into the conduct of LGT Bank and Mario Staggl, and established a commission to examine Liechtenstein laws, including the question of whether it does or should violate Liechtenstein law if a Liechtenstein financial institution were to aid or abet tax evasion or tax fraud by a U.S. client. When the Subcommittee asked Mr. Klein about the status of this investigation, he replied that he was not aware of it, despite his position as head of compliance for LGT Group. Liechtenstein is also considering entering into a tax information exchange agreement with the United States to provide wider cooperation in tax enforcement matters.

IV. UBS AG CASE HISTORY

UBS AG of Switzerland is one of the largest financial institutions in the world, and has one of the world's largest private banks catering to wealthy individuals. From at least 2000 to 2007, UBS made a concerted effort to open accounts in Switzerland for wealthy U.S. clients, employing practices that could facilitate, and have resulted in, tax evasion by U.S. clients. These

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[350] Subcommittee interview of Ivo Klein, head of LGT Group Compliance (7/11/08).

[351] See "Press Release from the (Liechtenstein) Office of the Public Prosecutor," (2/27/08), available at www.liechtenstein.li/en/pdf-fl-med-aktuell-staatsanwaltschaft1.pdf (viewed 7/14/08); Press Release by the Liechtenstein Police, (3/11/08); "Liechtenstein Prince Defends Bank Secrecy as Scandal Threatens Country's Haven Status," Daily Tax Report, International Tax and Accounting (2/22/08), No. ISSN 0092-6884, at 1; Mark Landler, "Liechtenstein issues international arrest warrant for tax informant," (3/12/08), International Herald Tribune.

[352] See www.eugen-von-hoffen.com (viewed 7/13/08).

UBS practices included maintaining for an estimated 19,000 U.S. clients "undeclared" accounts in Switzerland with billions of dollars in assets that have not been disclosed to U.S. tax authorities; assisting U.S. clients in structuring their accounts to avoid QI reporting requirements; and allowing its Swiss bankers to market securities and banking services on U.S. soil without an appropriate license in apparent violation of U.S. law and UBS policy. In 2007, after its activities within the United States came to the attention of U.S. authorities, UBS banned its Swiss bankers from traveling to the United States and took action to revamp its practices. UBS is now under investigation by the IRS, SEC, and U.S. Department of Justice.

A. UBS Bank Profile

UBS AG (UBS) is one of the largest banks in the world, currently managing client assets in excess of $2.8 trillion.[353] UBS is the product of a 1998 merger between two leading Swiss banks, Union Bank of Switzerland and Swiss Bank Corporation. In 2000, it grew even larger after merging with PaineWebber Inc., a U.S. securities firm with more than 8,000 brokers, nearly $500 billion in client assets, and a substantial U.S. clientele.[354]

Today, UBS is incorporated and domiciled in Switzerland, but operates in 50 countries with more than 80,000 employees, of which about 38% work in the Americas, 33% in Switzerland, 17% in the rest of Europe, and 12% in Asia Pacific.[355] UBS shares are listed on the Swiss Exchange, New York Stock Exchange, and Tokyo Stock Exchange.[356]

UBS AG is the parent company of the UBS Group which includes numerous subsidiaries and affiliates.[357] UBS Group is managed by a Board of Directors, which oversees a Group Executive Board. The Chairman of the Board of Directors is Peter Kurer; the Group CEO is Marcel Rohner.[358]

UBS Group is organized into three major business lines: Global Wealth Management & Business Banking, Global Asset Management, and an Investment Bank. UBS has one of the largest private banking operations in the world, with hundreds of private bankers dedicated to providing financial services to wealthy individuals and their families around the world. UBS also maintains a Corporate Center that provides group-wide policies, financial reporting, marketing, information technology infrastructure, and service centers, and an Industrial Holdings segment which includes UBS' own holdings and non-financial businesses.[359]

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[353] "Facts&Figures," (undated) available at www.ubs.com (viewed 5/28/08).

[354] "The Making of UBS," (undated) at 16, available at www.ubs.com (viewed 5/28/08).

[355] "Facts&Figures," (undated) available at www.ubs.com (viewed 5/28/08).

[356] UBS Annual Report 2007, Financial Statements, at 167.

[357] Id. at 25, 96-99.

[358] "Organizational Structure," (undated) available at www.ubs.com (viewed 5/28/08).

[359] UBS Annual Report 2007, Financial Statements, at 41.

UBS' private banking operations are included within the Global Wealth Management & Business Banking division, whose Chairman and CEO is Raoul Weil. That division is further divided into five regional segments: Wealth Management Americas; Wealth Management Asia Pacific; Wealth Management & Business Banking Switzerland; Wealth Management North, East & Central Europe; and Wealth Management Western Europe, Mediterranean, Middle East & Africa.[360]

In the United States, UBS maintains a large banking and securities presence, operating dozens of subsidiaries and affiliates. Its operations include a UBS AG branch office headquartered in Stamford, Connecticut; UBS Bank USA, a federally regulated bank chartered in Utah; three broker-dealers registered with the SEC, UBS International Inc., UBS Financial Services, Inc., and UBS Services LLC; and a variety of other businesses including UBS Fiduciary Trust Company in New Jersey; UBS Real Estate Securities Inc. in Delaware; UBS Trust Company National Association in New York; and UBS Life Insurance Company USA in California.[361] In 2007, UBS described its U.S. banking operations as follows: "Wealth Management US is a US financial services firm providing sophisticated wealth management services to affluent US clients through a highly trained financial advisor network."[362]

In addition to its U.S.-based operations, UBS services U.S. clients through business units based in Switzerland and other countries. For example, beginning in about 2003, UBS established "U.S. International Desks" in three of its Swiss locations, Geneva, Lugano, and Zurich. These desks, staffed with private bankers known as Client Advisors, deal exclusively with U.S. clients.[363] The U.S. International Desks originally categorized their U.S. clients according to the U.S. region where they lived, but in 2004, re-classified them according to the magnitude of their assets. "Core Affluent" clients were defined as those with assets ranging from 250 to 2 million Swiss Francs; "High Net Worth Individuals" (HNWI) had assets ranging from 2 million to 50 million Swiss Francs; and "Key Clients" had assets worth more than 50 million Swiss Francs.[364] In 2005, UBS formed a new Swiss subsidiary, called "Swiss Financial Advisers," which is an investment adviser registered with the SEC. SFA is tasked with "serving US clients outside of Switzerland." All U.S. clients of SFA are required to file W-9 Forms. UBS AG's North American International Wealth Management Division also noted that "[a]ssets of clients [in SFA are] under Swiss law," meaning that creditors seeking to attach the assets would be required to file in Swiss courts.[365] U.S. clients who are unwilling to declare their accounts to

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[360] "Global Wealth Management & Business Banking," (undated), organizational chart available at www.ubs.com (viewed 5/28/08). These five regional segments were established in a reorganization that took effect in 2007. Prior to that reorganization, the Global Wealth Management & Business Banking division had just three segments: Wealth Management US, Wealth Management International & Switzerland, and Business Banking Switzerland. UBS Annual Report 2007, Financial Statements, at 41.

[361] UBS Annual Report 2007, Financial Statements, at 96-99; Strategy, Performance and Responsibility, at 104.

[362] UBS Annual Report 2007, Financial Statements, at 41. Wealth Management US is now included within Wealth Management Americas.

[363] Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

[364] Id.

[365] UBS Minutes of Geneva Wealth Management North America International Meeting (10/13/04), Bates No. UPSI 49952-54, at 49952.

the United States are not permitted by UBS to hold U.S. securities in their Swiss accounts, but can be serviced by Client Advisors in the Geneva, Lugano, and Zurich offices.[366]

B. UBS Swiss Accounts for U.S. Clients

Although UBS has extensive banking and securities operations in the United States that could accommodate its U.S. clients, from at least 2000 to 2007, UBS directed its Swiss bankers to target U.S. clients willing to open bank accounts in Switzerland. UBS told the Subcommittee it now has Swiss accounts for about 19,000 U.S. clients with in the range of $18 billion in undeclared assets. In 2002, UBS assured its U.S. clients with undeclared accounts that U.S. authorities would not learn of them, because the bank is not required to disclose them; UBS procedures, practices and services protect against disclosure; and the account information is further shielded by Swiss bank secrecy laws. Until recently, UBS encouraged its Swiss bankers to travel to the United States to recruit new U.S. clients, organized events to help them meet wealthy U.S. individuals, and set annual performance goals for obtaining new U.S. business. It also encouraged its Swiss bankers to service U.S. client accounts in ways that would minimize notice to U.S. authorities. The evidence suggest that UBS Swiss bankers marketed securities and banking products and services in the United States without an appropriate license to do so and in apparent violation of U.S. law and the bank's own policies.

Information obtained by the Subcommittee about UBS Swiss accounts opened for U.S. citizens came in part from former UBS employee, Bradley Birkenfeld. Mr. Birkenfeld is a U.S. citizen who worked as a private banker in Switzerland from 1996 until his arrest in the United States in 2008. He worked for UBS in its private banking operations in Geneva from 2001 to 2005, until he resigned from the bank.[367] In 2007, while in the United States, Mr. Birkenfeld was subpoenaed by the Subcommittee to provide documentation and testimony related to his employment as a private banker. In a sworn deposition before Subcommittee staff, Mr. Birkenfeld provided detailed information about a wide range of issues related to UBS business dealings with U.S. clients. In 2008, Mr. Birkenfeld was arrested, indicted, and pled guilty to conspiring with a U.S. taxpayer, Igor Olenicoff, to hide $200 million in assets in Switzerland and Liechtenstein, to evade $7.2 million in U.S. taxes.[368]

(1) Opening Undeclared Accounts with Billions in Assets

From at least 2000 to 2007, UBS has opened tens of thousands of accounts in Switzerland that are beneficially owned by U.S. clients, hold billions of dollars in assets, and have not been reported to U.S. tax authorities. These Swiss accounts were opened by U.S. clients, but, for a variety of reasons, the clients did not file W-9 Forms with UBS for the accounts. Because the clients did not file W-9 reports with the bank, UBS did not file 1099 Forms with the IRS

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[366] Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

[367] Birkenfeld deposition (10/11/07), at 14. Prior to UBS, he worked for private banking operations in Geneva at Credit Suisse and Barclays Bank.

[368] United States v. Birkenfeld.

reporting the account information. UBS refers to these accounts internally as "undeclared accounts."

In response to Subcommittee inquiries, UBS has estimated that it today has accounts in Switzerland for about 20,000 U.S. clients, of which roughly 1,000 have declared accounts and the remainder have undeclared accounts that have not been disclosed to the IRS.[369] UBS also estimated that those accounts contain assets with a combined value of about 18.2 billion in Swiss francs or about $17.9 billion. UBS was unable to specify the breakdown in assets between the undeclared and declared accounts, except to note that the amount of assets in the undeclared accounts would be much greater.

These figures suggest that the number of U.S. client accounts in Switzerland and the amount of assets contained in those accounts have nearly doubled since 2002, when a UBS document reported that the Swiss private banking operation then had more than 11,000 accounts for clients in "North America," meaning the United States and Canada, with combined assets in excess of 21 billion Swiss francs or about $13.3 billion.[370] The UBS document also calculates that, in 2002, these accounts had earned the bank "net revenues" of about 150 million Swiss francs.[371] Since then, the Swiss private banking operations have reported opening many more U.S. client accounts in Switzerland with additional billions of dollars in assets.[372]

The UBS figures for 2008 also appear consistent with internal UBS documents from 2004 and 2005, which suggest that a substantial portion of the UBS Swiss accounts opened for U.S. clients at that time were undeclared. This information is contained in a set of monthly reports for select months in 2004 and 2005, which tracked key information for Swiss accounts opened for North American clients, meaning clients from the United States and Canada.[373] These reports also break down the data for both declared and undeclared accounts.[374] The data

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[369] Subcommittee interview with UBS (7/14/08).

[370] Key Clients in NAM [North America]: Business Case 2003-2005, (undated), at 26 (chart entitled, "Assessment of Current KC [Key Client] Base").

[371] Id.

[372] See, e.g., email from Martin Liechti re "Happy New Year" (undated) (stating UBS Swiss client advisors had quadrupled their intake of net new money into Switzerland from 4 million Swiss francs per client advisor in 2004 to 16 million Swiss francs per client advisor in 2006).

[373] See "BS North America Report: Overview Figures North America," prepared in July, August, September, October, November, and December 2004, and January, February, March, August, September, and October 2005. These reports appear to be excerpts from larger reports. These documents, on their face, present data for Swiss accounts opened for U.S. and Canadian clients. According to UBS, however, it is possible that the data may include some Swiss accounts opened for persons from other countries.

[374] The 2004 monthly reports, for example, show data for "W9" accounts and "NON W9" accounts, which correspond to declared and undeclared accounts. The March 2005 report provides data for "W9" accounts and "SFA" accounts, which at that time corresponded to the declared accounts, as well as data for "NON W9" accounts, which corresponded to the undeclared accounts. "SFA" refers to Swiss Financial Advisers, the UBS subsidiary in Switzerland that is a registered U.S. investment adviser, opens securities accounts only for U.S. clients who submit W-9 Forms, and reports all such accounts to the IRS. Mr. Birkenfeld told the Subcommittee that SFA was referred to within UBS as "'the declared desk.'" Birkenfeld deposition at 84. He also explained that all Swiss bankers who formerly had declared accounts had been required to transfer them to SFA. Id. at 85. That meant U.S. clients in Switzerland with accounts outside of SFA were necessarily undeclared accounts. Reports later in 2005 use different

suggests that the undeclared accounts not only held more assets, but also brought in more new money and were more profitable for the bank than the declared accounts.

The first data element in the reports is the total amount of assets in the specified accounts. Each month shows substantially greater assets in the undeclared accounts for U.S. clients than in the declared accounts. In October 2005, for example, the data shows a total of about 18 billion Swiss francs of assets in the undeclared accounts for U.S. clients[375] and 2.6 billion Swiss francs in the declared accounts.[376] Clearly, the assets in the undeclared accounts vastly outweigh the assets in the declared accounts for U.S. clients.

The monthly reports also track the extent to which the accounts brought in new money to UBS, referred to as "net new money" or NNM. The October 2005 report appears to show that, for the year to date, the undeclared accounts for U.S. clients had brought in more than 1.3 billion Swiss francs in net new money for UBS,[377] while the declared accounts had collectively lost about 333 million Swiss francs over the same time period.[378] These figures indicate that, in 2004 and 2005, the undeclared account assets were growing, while the declared account assets were shrinking.

The last data element in the monthly reports tracks the revenue generated by the accounts for UBS. Each month shows that UBS earned significantly more in revenues from the undeclared accounts for U.S. clients than from the declared accounts. For example, the October 2005 report shows that UBS obtained year-to-date revenues of about 180.9 million Swiss francs from the undeclared accounts[379] versus 22.1 million Swiss francs from the declared accounts.[380] By every measure employed by UBS in these monthly reports, the undeclared U.S. client accounts were more popular and more lucrative for the bank.

Still another UBS document, prepared in 2004 for a meeting of Swiss private banking officials in Geneva, to reach an "Executive Board Decision" on several matters, shows the

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terminology again, providing data for "US International" accounts, which correspond to the undeclared accounts, and data for a "W9 Business Row" and SFA accounts, which correspond to the declared accounts.

[375] Id. The 18 billion figure is derived from the amount shown for "US International" (18.5 billion) after subtracting the amount shown for "W9 Business Row" (0.5 billion). The Subcommittee also asked UBS to produce similar data for 2006 and 2007, but has yet to receive it.

[376] Id. The 2.6 billion figure is derived from adding together the figures shown for "W9 Business Row" (0.5 billion) and "SFA" (2.1 billion).

[377] The 1 billion figure is derived from the amount shown for "US International" (1.054 billion) after eliminating the loss shown for "W9 Business Row" (loss of 309.8 million), resulting in NNM of about 1.364 billion.

[378] The 333 million figure is derived from adding together the figures shown for "W9 Business Row" (loss of 309.8 million) and "SFA" (loss of 23.8 million).

[379] The 180.9 million figure is derived from the amount shown for "US International" (194.3 million) after subtracting the amount shown for "W9 Business Row" (13.4 million).

[380] The 22.1 million figure is reached by adding together the figures shown for "W9 Business Row" (13.4 million) and "SFA" (8.7 million).

bank's awareness of the undeclared and declared accounts opened for U.S. clients.[381] About mid-way through, this document includes two flow charts showing how a UBS client advisor should handle an account with a "U.S. person." The first flow chart shows that accounts for U.S. persons domiciled in the United States should go to certain offices if a W-9 is filed, and to the North American desk in Zurich if "no W9 form" is filed. The second flow chart shows that, for U.S. persons domiciled outside of the United States, accounts with a W-9 form should go to WBS in Zurich to the "W9 Team," while accounts with "no W9 form signed" should go to the "Country team" in the country where the U.S. person was domiciled. These two flow charts provide additional evidence that the top management of UBS in Switzerland was well aware of the bank's practice of maintaining declared and undeclared accounts for U.S. clients, and had even institutionalized the administration of these accounts in different offices.

In his deposition before the Subcommittee, Mr. Birkenfeld indicated that, while he was employed at UBS from 2001 to 2005, it was his understanding that UBS had thousands of Swiss accounts opened by U.S. clients, the majority of which were undeclared and never disclosed to the IRS. He stated that, "I didn't see anyone declare any of those [Swiss] accounts in my entire career."[382]

In the recent U.S. criminal case involving Mr. Birkenfeld, the U.S. Government filed a Statement of Facts, signed by Mr. Birkenfeld, stating that UBS Switzerland had "$20 billion of assets under management in the United States undeclared business, which earned the bank approximately $200 million per year in revenues."[383]

(2) Ensuring Bank Secrecy

UBS has not only maintained undeclared Swiss accounts for U.S. clients containing billions of dollars in assets, it has also adopted practices to ensure that, in keeping with Swiss bank secrecy laws, those undeclared accounts would not be disclosed to U.S. authorities.

Promising Bank Secrecy. UBS has assured its U.S. clients in writing that UBS will take steps to protect their undeclared accounts from disclosure to U.S. tax authorities. In November 2002, for example, senior officials in the UBS private banking operations in Switzerland sent the following letter to its U.S. clients about their Swiss accounts:

> "Dear client:
>
> "From our recent conversations we understand that you are concerned that UBS' stance on keeping its U.S. customers' information strictly confidential may have changed especially as a result of the acquisition of Paine Webber. We are writing to reassure you that your fear is unjustified and wish to outline only some of the reasons why the protection of client data can not possibly be compromised upon:

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[381] UBS presentation entitled, "North America Meeting[:] Update U.S. NewCo (W9)," (9/15/04), Bates Nos. UPSI 49907-27, at 17-18.

[382] Birkenfeld deposition (10/11/07), at 28.

[383] United States v. Birkenfeld, Statement of Facts, at 3.

"– The sharing of customer data with a UBS unit/affiliate located abroad without sufficient customer consent constitutes a violation of Swiss banking secrecy provisions and exposes the bank employee concerned to severe criminal sanctions. Further, we should like to underscore that a Swiss bank which runs afoul of Swiss privacy laws will face sanctions by its Swiss regulator ... up to the revocation of the bank's charter. Already against this background, it must be clear that information relative to your Swiss banking relationship is as safe as ever and that the possibility of putting pressure on our U.S. units does not change anything. Our bank has had offices in the United States as early as 1939 and has therefore been exposed to the risk of US authorities asserting jurisdiction over assets booked abroad since decades. Please note that our bank has a successful track record of challenging such attempts.

"– As you are aware of, UBS (as all other major Swiss banks) has asked for and obtained the status of a Qualified Intermediary under U.S. tax laws. The QI regime fully respects client confidentiality as customer information are only disclosed to U.S. tax authorities based on the provision of a W-9 form. Should a customer choose not to execute such a form, the client is barred from investments in US securities but under no circumstances will his/her identity be revealed. Consequently, UBS's entire compliance with its QI obligations does not create the risk that his/her identity be shared with U.S. authorities."[384]

This letter plainly asserts that UBS will not disclose to the IRS a Swiss account opened by a U.S. client, so long as that account contains no U.S. securities, even if UBS knows the accountholder is a U.S. taxpayer obligated under U.S. tax law to report the account and its contents to the U.S. Government.

UBS told the Subcommittee that it has no legal obligation to report such undeclared accounts to the IRS, provided that UBS ensures that the accounts do not contain U.S. securities and, thus, are not subject to reporting under the QI Program. UBS also told the Subcommittee that it recognizes that a U.S. accountholder may have a legal obligation to report a foreign trust, foreign bank account, or foreign income to the IRS. UBS pointed out, however, that those reporting obligations apply to the accountholder personally and not to UBS. UBS, thus, asserts that it has broken no law or QI obligation by allowing U.S. clients to open and maintain undeclared accounts in Switzerland, if those accounts do not contain U.S. securities.[385]

Helping U.S. Clients Avoid QI Disclosure. UBS has not only maintained undeclared accounts in Switzerland for numerous U.S. clients, it took steps to assist its U.S. clients to structure their Swiss accounts in ways that avoided U.S. reporting rules under the QI Program.

UBS informed the Subcommittee that, after it joined the QI Program in 2001, and informed its U.S. clients about its QI disclosure obligations, many of its U.S. clients elected to

[384] UBS letter addressed to "Dear client" (11/4/02).

[385] Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

sell U.S. securities or open new accounts to avoid the QI reporting obligations attached.[386] UBS told the Subcommittee, for example, that in 2001, hundreds of its U.S. clients sold their U.S. securities so that their Swiss accounts would not be covered by the QI Program. UBS told the Subcommittee that it estimates that, in 2001, its U.S. clients sold over $2 billion in U.S. securities from their Swiss accounts. UBS allowed these U.S. clients to continue to maintain accounts in Switzerland, and helped them reinvest in other types of securities that did not trigger reporting obligations to the IRS, despite evidence that these U.S. clients were using their Swiss accounts to hide assets from the IRS.

UBS also told the Subcommittee that, in 2001, about 250 of its U.S. clients with Swiss accounts took action to establish corporations, trusts, foundations, or other entities in non-U.S. countries, open new UBS accounts in the names of those foreign entities, and then, in a number of instances, transfer U.S. securities from the client's personal accounts to those new accounts. The offshore entities included corporations, trusts, and foundations set up in the British Virgin Islands, Hong Kong, Liechtenstein, Panama, and Switzerland.[387] UBS then accepted W-8BEN Forms from these offshore entities in which they claimed ownership of the assets had been transferred from the U.S. clients' personal accounts. UBS treated the new accounts as held by non-U.S. persons whose identities did not have to be disclosed to the IRS, even though UBS knew that the true beneficial owners were U.S. persons.

These facts indicate that, soon after it joined the QI Program, UBS helped its U.S. clients structure their Swiss accounts to avoid reporting billions of dollars in assets to the IRS. Among other actions, UBS allowed some of its U.S. clients to establish offshore structures to assume nominal ownership of assets, and allowed U.S. clients to continue to hold undisclosed accounts that were not reported to the IRS. Such actions, while not violations of the QI agreements per se, clearly undermined the program's effectiveness and led to the formation of offshore structures and undeclared accounts that could facilitate, and have resulted in, tax evasion by U.S. clients.

The actions taken by UBS, in many ways, matched LGT's response to the QI Program. Both UBS and LGT advised the Subcommittee that most of their U.S. clients engaged in a massive sell-off of U.S. securities after the banks signed QI agreements in 2001. In addition, both UBS and LGT allowed a number of U.S. clients to establish offshore corporations to hold U.S. securities. It appears that UBS exploited the gap between KYC rules and the QI Program in the same manner as LGT, by treating offshore corporations as non-U.S. persons for QI reporting purposes, despite knowing for KYC purposes that the offshore corporations and their assets were beneficially owned by U.S. persons. Both banks continued to maintain accounts for their U.S. clients, despite evidence that the clients were hiding their assets and accounts from the IRS. In this way, both UBS and LGT employed QI practices that kept the U.S. clients' accounts secret from the IRS and thereby facilitated tax evasion by the U.S. clients holding undeclared accounts.

The Statement of Facts in the Birkenfeld criminal case characterizes these actions as follows: "By concealing the U.S. clients' ownership and control in the assets held offshore,

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[386] Id.

[387] United States v. Birkenfeld, Statement of Facts, at 3.

defendant Birkenfeld, the Swiss Bank, its managers and bankers evaded the requirements of the Q.I. program, defrauded the IRS and evaded United States income taxes."[388]

(3) Targeting U.S. Clients

In addition to discovering that UBS maintained billions of dollars in undeclared accounts in Switzerland for U.S. clients and took steps to help U.S. client circumvent QI reporting requirements, the Subcommittee discovered that, from at least 2000 to 2007, UBS Swiss bankers engaged in an intensive effort to target U.S. clients to open Swiss accounts. UBS repeatedly sent its Swiss bankers onto U.S. soil to recruit new clients, expand existing accounts, and meet increasing business demands to bring new client money from the United States into Switzerland.

Legal and Policy Restrictions on U.S. Activities. U.S. securities law prohibits non-U.S. persons from advertising securities products or services or executing securities transactions within the United States, unless registered with the Securities and Exchange Commission (SEC).[389] In addition, securities products offered to U.S. persons must comply with U.S. securities laws, which generally means they must be registered with the SEC, a condition that may not be met by non-U.S. securities, mutual funds, and other investment products. In addition, although UBS AG is licensed to operate as a bank and broker-dealer in the United States, those licenses do not extend to its non-U.S. offices or affiliates providing banking or securities services to U.S. residents.[390] Similar prohibitions may appear in State securities and banking laws. Moreover, in provisions known as "deemed sales" rules, U.S. tax laws and the standard QI agreement require sales of non-U.S. securities to be reported by foreign financial institutions on 1099 Forms sent to the IRS, if those sales were effected in the United States, such as arranged by a broker physically in the United States or through telephone calls or emails originating in the United States.[391]

To avoid violating U.S. law, exceeding its SEC and banking licenses, or triggering 1099 reporting requirements for deemed sales, since at least 2002, UBS has maintained written policies restricting the marketing and client-related activities that may be undertaken in the United States by UBS employees from outside of the country.

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[388] Id.

[389] See, e.g., Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1):

> "(a) Registration of all persons utilizing exchange facilities to effect transactions; exemptions.
> (1) It shall be unlawful for any broker or dealer which is either a person other than a natural person or a natural person not associated with a broker or dealer which is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with subsection (b) of this section."

[390] UBS makes this statement in its 2004 policy statement. See "Cross-Border Banking Activities into the United States **(version November 2004)**," prepared by UBS, Bates Nos. PSI-OPB 103-105, at 103 (emphasis in original).

[391] See, e.g., "U.S. Tax and Reporting Obligations for Foreign Intermediaries' Non-U.S. Securities," 47 Tax Notes Int'l 913 (9/3/07).

2002 UBS Restrictions on U.S. Activities. In 2002, for example, UBS issued a set of guidelines for its Swiss bankers administering securities accounts for U.S. clients.[392] These guidelines stated that, under U.S. tax regulations, securities trades in non-U.S. securities on behalf of a U.S. person trigger reporting requirements to the IRS under QI or IRS deemed sales rules, unless the trades are effected "by a UBS portfolio manager with discretion from a bank office of a non-US bank outside the territory of the US." To qualify for the exception and avoid reporting any securities trades or accounts to the IRS, the guidelines provide a long list of actions that UBS Swiss bankers cannot undertake with respect to their U.S. clients. Essentially, the guidelines instruct the Swiss bankers to persuade their U.S. clients to enter into a "discretionary asset management relationship" with the bank and then to "[c]ease to accept customer instructions from US territory" so that no securities trades are effected within the United States that might require reporting to the IRS.

The 2002 UBS guidelines tell the Swiss bankers, for example, to ensure that there is "no use of US mails, e-mail, courier delivery or facsimile regarding the client's securities portfolio;" "no use of telephone calls into the US regarding the client's securities portfolio;" "no account statements, confirmations, performance reports or any other communications" while in the United States; "no further instructions ... from ... clients while they are in the US;" "no marketing of advisory or brokerage services regarding securities;" "no discussion of or delivery of documents concerning the client's securities portfolio while on visits in the US;" "no discussion of performance, securities purchased or sold or changes in the investment mandate for the client" while in the United States; and "no delivery of documents regarding performance, securities purchased or sold or changes in the investment mandate for the client."

2004 Restatement of U.S. Restrictions. A 2004 UBS policy statement on "Cross-Border Banking Activities into the United States," replaced the 2002 guidelines, while repeating most of the prohibitions. This policy statement informed UBS non-U.S. bankers, for example, that U.S. Federal and State laws restrict the actions that they can take while in the United States.[393] It states:

> "UBS AG has several U.S. branches and agencies and various non-banking subsidiaries all properly licensed, but these licenses **do not** encompass cross-border services provided to U.S. residents by UBS AG offices or affiliates outside of the United States. ... Some state laws prohibit banks without a banking license from that state from soliciting deposits from that state's residents. States also may prohibit non-licensed lenders from making certain loans to consumers in such states. Any entity outside of the United States that is not registered with the SEC ... may not advertise securities services or products in the United States."[394]

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[392] See "Wealth Management and Business Banking Client Advisor's Guidelines for Implementation and Management of Discretionary Asset Management Relationship with U.S. Clients," (undated but likely late 2001). See also UBS letter to Mr. Birkenfeld (3/17/06), Bates Nos. PSI-OPB 84-85, at 1 ("[T]he rules which set forth UBS approach to servicing US resident clients have been posted on the UBS-intranet already since early 2002.").

[393] See "Cross-Border Banking Activities into the United States **(version November 2004)**," prepared by UBS, Bates Nos. PSI-OPB, at 103-105 (emphasis in original).

[394] Id.

The 2004 UBS policy statement goes on to list specific restrictions on activities that may be undertaken by its non-U.S. personnel while in the United States. These restrictions include the following:

> "UBS will not advertise and market for its services with material going beyond generic information relating to the image of UBS AG and its brand in the U.S. UBS AG may not organize, absent an opinion from Legal, events in the U.S.[395]
>
> "UBS AG may not establish relationships for securities products or services with new clients resident in the United States with the use of U.S. jurisdictional means. Thus, it must ensure that it does not contact securities clients in the United States through telephone, mail, e-mail, advertising, the internet or personal visits.[396]
>
> "UBS AG should ensure that:
> - No marketing or advertising activity targeted to U.S. persons takes place in the United States;
> - No solicitation of account opening takes place in the United States;
> - No cold calling or prospecting into the United States takes place;
> - No negotiating or concluding of contracts takes place in the United States;
> - No carrying or transmitting of cash or other valuables of whatever nature out of the United States takes place; ...
> - No routine certification of signatures, transmission of completed account documentation, or related administrative activity on behalf of UBS AG takes place;
> - Employees do not carry on substantial activities at fixed location(s) while in the United States thereby establishing on office or maintaining a place of business.[397]

In his deposition before the Subcommittee, Mr. Birkenfeld claimed to have been unaware of these types of restrictions on his conduct until a colleague brought them to his attention in May 2005, by showing him the 2004 policy statement on UBS' internal computer system.[398] He told the Subcommittee, "When I read it, I was very concerned about what was going on in the bank, because this contradicted entirely what my job description was."[399] UBS has countered that its Swiss personnel were informed about the restrictions shortly after they were re-issued, in training sessions held during September 2004, which Mr. Birkenfeld attended.[400]

Sponsoring Travel to the United States. Despite the explicit and extensive restrictions on allowable U.S. activities set out in its policy statements, in interviews with the Subcommittee,

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[395] Id.

[396] Id.

[397] Id. at 103-104.

[398] Birkenfeld deposition, (10/11/07), at 105.

[399] Id. at 106.

[400] See UBS letter to Mr. Birkenfeld (3/17/06), Bates Nos. PSI-OPB 84-85, at 84 (stating Mr. Birkenfeld had been informed of the restrictions during two training sessions in September 2004).

UBS confirmed that, from at least 2000 to 2007, it routinely authorized and paid for its Swiss bankers to travel to the United States to develop new business and service existing clients.[401] Documents obtained by the Subcommittee related to UBS Swiss bankers also frequently reference travel to the United States. A 2003 "Action Plan" for the UBS private banking operation in Switzerland, for example, called for increased client contact "through business trips" to the United States and directed Swiss private bankers to seek "active referrals from existing clients for new relationships."[402] A 2005 document called for "frequent travelling" and "selective travelling" by UBS Swiss bankers to the United States as part of the services to be provided to U.S. clientele.[403]

During his deposition, Mr. Birkenfeld told the Subcommittee that, during his years at UBS, the private bankers from Switzerland who dealt with U.S. clients typically traveled to the United States four to six times per year, using their trips to search for new clients and provide financial services to existing clients.

> "[W]e had a very large group of people in Lugano, Geneva, and Zurich that marketed directly into the U.S. market. The private bankers would travel anywhere between four and six times a year to the U.S., spend anywhere from one to two weeks in the U.S., prospecting, visiting existing clients, so on and so forth. ... As I remember, there [were] around 25 people in Geneva, 50 people in Zurich, and five to ten in Lugano. This is a formidable force."[404]

Mr. Birkenfeld testified that UBS not only authorized and paid for the business trips to the United States, but also provided the Swiss bankers with tickets and funds to go to events attended by wealthy U.S. individuals, so that they could solicit new business for the bank in Switzerland. He said that UBS sponsored U.S. events likely to attract wealthy clients, such as the Art Basel Air Fair in Miami; performances in major U.S. cities by the UBS Vervier Orchestra featuring talented young musicians; and U.S. yachting events attended by the elite Swiss yachting team, Alinghi, which was also sponsored by UBS. An internal UBS document laying out marketing strategies to attract U.S. and Canadian clients confirms that the bank "organized VIP events" and engaged in the "Sponsorship of Major Events" such as "Golf, Tennis Tournaments, Art, Special Events."[405] This document even identified the 25 most affluent housing areas in the United States to provide "targeted locations where to organize events."[406]

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[401] Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

[402] Chart entitled, "Action Plan 2003 for Country Team," (undated).

[403] "Organizational changes NAM," Powerpoint presentation by Michel Guignard of UBS private banking in Switzerland (5/10/05), at 7.

[404] Birkenfeld deposition (10/11/07), at 46, 47-48. Mr. Birkenfeld clarified during the deposition that the numbers he gave referred to "just the bankers" at the three Swiss offices.

[405] "KeyClients in NAM: Business Case 2003-2005," prepared by UBS Wealth Management (undated), at 38-39. "NAM" refers to UBS' North American division within its private banking operations in Switzerland.

[406] Id. at 40.

Mr. Birkenfeld described to the Subcommittee how Swiss private bankers used these events and other means to find new U.S. clients during their trips to the United States:

> "You might go to sporting events. You might go to car shows, wine tastings. You might deal with real estate agents. You might deal with attorneys. ... It's really where do the rich people hang out, go and talk to them. ... [I]t wasn't difficult to walk into a party with a ... business card, and then someone ask[s] you, 'What do you do?' and you say, 'Well, I work for a bank in Switzerland, and we manage money there and open accounts.' And people immediately would recognize, oh, this is someone who could open new business by opening accounts."[407]

While travel by Swiss bankers to the United States was generally not only allowed, but encouraged, UBS told the Subcommittee that, on four occasions since 2000, for a variety of reasons, it had imposed temporary bans on Swiss travel to the United States.[408] These short-term travel bans were imposed: (1) in 2001, following the 9/11 attack on the United States; (2) in 2003, coinciding with an IRS announcement of an Offshore Voluntary Compliance Initiative encouraging U.S. taxpayers with offshore credit cards to disclose their offshore accounts in exchange for avoiding certain penalties;[409] (3) in 2003 again, following the SARS epidemic outbreak; and (4) in September 2004, in response to the questioning of a UBS private banker by the IRS. Each of these travel bans was lifted shortly after it was imposed. In November 2007, however, UBS fundamentally changed its travel policy, instituting for the first time a prohibition on business travel by its Swiss private bankers to the United States, examined further below.[410]

To gain a better understanding of the extent to which UBS Swiss private bankers traveled to the United States in recent years, the Subcommittee conducted an analysis of over 500 travel records compiled by the Department of Homeland Security, at the Subcommittee's request, of persons traveling from Switzerland to the United States from 2001 to 2008, to identify UBS Swiss employees known to have provided banking and securities services to U.S. clients.[411] The Subcommittee determined that, from 2001 to 2008, roughly twenty UBS client advisors made an

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[407] Id. at 36-37.

[408] Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

[409] Id. See also Birkenfeld deposition before the Subcommittee (10/11/07), at 157. For more information about this IRS initiative, see the IRS website at www.irs.gov.

[410] See, e.g., UBS internal memorandum addressed to "Colleagues" regarding "Changes in business model for U.S. private clients," (11/15/08).

[411] To find likely UBS client advisors – as opposed to persons whose names coincidentally matched those persons identified to the Subcommittee as UBS personnel – the analysis eliminated all persons from the sample born after a given date who would be too young to be likely candidates. The data was then sorted by date traveled and the ports of entry used, to identify persons traveling at the same time to the same location. This data enabled the Subcommittee to identify UBS client advisors who, for example, made visits to Miami during the dates of the Art Basel event. The Subcommittee chose to eliminate from the analysis persons who did not appear to have a traveling correlation with other known UBS bankers or a link to a UBS event such as Art Basel, as well as persons with similar names to known UBS personnel but who reported different birthdays. The resulting figures, thus, represent a conservative analysis of the number of trips made by UBS Swiss personnel to the United States over the last seven years. The Subcommittee would like to express its appreciation for the assistance rendered by the U.S. Department of Homeland Security in securing, compiling, and analyzing this travel data.

aggregate total of over 300 visits to the United States. Only two of these visits took place from 2001 to 2002; the rest occurred from 2003 to 2008. On several occasions, the visits appear to have involved multiple UBS client advisors traveling together to UBS-sponsored events in the United States. Some of these client advisors designated their visits as travel for a non-business purpose on the I-94 Customs declaration forms that all visitors must complete prior to entry into the United States.[412] Closer analysis, however, reveals that the dates and ports of entry for such trips coincided with the UBS-sponsored events, suggesting the visits were, in fact, business-related.

For example, the Subcommittee found that at least five UBS Swiss client advisors travelled to the United States for trips coinciding with the Art Basel Art Fair, an annual UBS-sponsored event held in early December in Miami Beach since 2002. The data shows that, over the years, several UBS Swiss client advisors were in Miami during the art show, including three in 2007. On the customs forms completed over the years by UBS travelers prior to landing at Miami International airport, only one client advisor stated that the purpose of the trip was for business, while five described the visit as for pleasure. These client advisors' trips, however, coincided closely with the dates of the Art Basel event, including an invitation-only private showing. Moreover, the Subcommittee's analysis of the customs and travel records obtained from the Department of Homeland Security show that a Swiss-based UBS client advisor traveled to New England from June 20-25, 2004, a trip coinciding with the UBS Regatta Cup held in Newport, Rhode Island from June 19-26, 2004.

The Subcommittee's analysis also showed patterns of travel by Swiss-based UBS client advisors who made regular U.S. visits. One UBS employee, for example, travelled to the United States three times per year, at roughly four-month intervals, from 2003 to 2007. A senior UBS Swiss private bank official – Michel Guignard – visited the United States nearly every other month for a significant portion of the period examined by the Subcommittee. Martin Liechti, an even more senior Swiss private banking official, visited the United States up to eight times in a year.

This travel data provides additional evidence regarding the personnel and resources that have been dedicated by UBS to recruiting and servicing U.S. clients with Swiss accounts.

Assigning NNM Targets. UBS not only paid for its Swiss bankers to travel to the United States and helped them attend U.S. events to prospect for new U.S. clients, it also gave its Swiss bankers specific performance goals for bringing new money into the bank from the United States. These performance goals may have intensified the efforts of UBS Swiss bankers to recruit U.S. clients.

Mr. Birkenfeld told the Subcommittee that, during his tenure at UBS, his superiors at UBS gave him a specific, annual monetary goal, referred to as a "net new money" (NNM) target that he was expected to bring into the bank by the end of the year from U.S. clients. He said that it was his understanding that an NNM target was established for each Swiss client advisor who

[412] See Arrival-Departure Record, CBP Form I-94, for Nonimmigrant Visitors with a Visa for the United States, discussed in the website of the Customs and Border Patrol, at www.cbp.gov.

dealt with U.S. clients. He indicated that the amount varied according to the seniority and track record of the particular client advisor. He told the Subcommittee: "So my job as a private banker predominantly was to bring in net new money, and then on top of it create return on assets, ROA. ... A rough estimate would be probably to bring in probably $50 million a year or $40 million."[413]

Mr. Birkenfeld explained that the NNM target could be met by securing additional assets from existing clients or by securing one or more new clients.

> "[O]ne client could make your numbers or 10 or 25 could make your numbers. It's very hard to gauge that. And, again, when people aren't paying tax in the three areas I told you – inheritance, income, and capital gains – it's quite easy for people to bring money to you. They're very interested to bring as much money to the bank as possible."[414]

Internal UBS documents confirm that the bank carefully tracked annual figures for net new money and return on assets, among other performance measures for its Swiss private banking operations targeting clients in North America.[415] The documents also show that UBS took a variety of steps to encourage its bankers to meet their NNM goals. In 2003, for example, the head of the Wealth Management Americas division in Switzerland, Martin Liechti, sent a letter to his colleagues, urging each of them to refer at least five clients to Switzerland and promising to award the person with the most referrals with an expensive Swiss watch:

> "Net New Money is, as you know, a key element for our success. This means that we all have to work hard to achieve our NNM goals for 2003 and the years to come. In order to reach this goal, two main initiatives have been launched: The KeyClient initiative and the Referral Program within UBS. ...
>
> "Each Country Team making a referral will get 0.33% of the revenues generated by the Financial Advisor over a time period of four years. As you know, we set, at the beginning of the year, a target of 5 referrals per CA [Client Advisor] to be made. I am aware that it is a challenge to reach this goal. In acknowledgement of your effort and commitment, I would like to award the Client Advisor in each Country Team who achieves, until the 31st of December 2003, the most referrals (amount of money and number of referrals), but at least the 5 referrals set as target, with a Breitling wristwatch. The same will be valid for the Rep Officer (including all Rep Offices in Latin America) who achieves this goal. Since 2003 will be a unique 'brand year' in UBS' history, each Breitling watch we award will be 'customized' with the UBS logo."[416]

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[413] Birkenfeld deposition at 20, 23.

[414] Id. at 22.

[415] See, e.g., "BS North America Report: Overview Figures North America," prepared by UBS (July 2004) (providing data on NNM, ROA, and other performance measures for 2004 and 2005), Bates Nos. UPSI 00060246-257; "UBS Management Summary Report-Graphs" (YTD [Year To Date] October 2002), Bates No. PSI-OPB-137 (providing ROA and NNM data for Swiss offices dealing with U.S. clients).

[416] Letter entitled, "Referral Campain BU Americas," from UBS private banking head Martin Liechti to his "Colleagues," (6/2/03), apparently printed in an internal UBS publication, "PB Americas International News."

In early 2007, Mr. Liechti sent an email setting a new NNM goal for all of UBS Swiss bankers with clients in the "Americas," including the United States. His email states:

> "Welcome to the new year! I hope you enjoyed the holidays with your family and friends and took the opportunity to relax and 'recharge your batteries'.
>
> "We achieved much in 2006 and I thank you for your huge efforts and dedication to the Americas.
>
> "The markets are growing fast, and our competition is catching up. ... The answer to guarantee our future is GROWTH. We have grown from CHF 4 million per Client Advisor in 2004 to 17 million in 2006. We need to keep up with our ambitions and go to 60 million per Client Advisor! ...
>
> "Our ambitions:
>
> "100 RoA [Return on Assets]
> 60 NNM per CA [Client Advisor]
> 100% Satisfied Clients ...
>
> "In the Chinese Horoscope, 2007 is the year of the pig. In many cultures, the pig is a symbol for 'luck'. While it's always good to have [a] bit of luck, it is not luck that leads to success. Success is the result of vision and purpose, hard work and passion. ... Together as a team I am convinced we will succeed!"[417]

This email indicates that in two years, from 2004 to 2006, UBS Swiss bankers had quadrupled the amount of net new money being drawn into UBS from the "Americas," and that the bank's management sought to quadruple that figure again in a single year, 2007. This email helps to convey the pressure that UBS placed on its Swiss private bankers to bring in new money from the United States into Switzerland.

Another UBS document entitled, "KeyClients in NAM: Business Case 2003-2005," provides context for the Swiss private banking operations' focus on obtaining U.S. clients. This document observes that "31% of World's UHNWIs [Ultra High Net Worth Individuals] are in North America (USA + Canada)."[418] It also observes that the United States has 222 billionaires with a combined net worth of $706 billion.[419] This type of information helps explain why UBS dedicated significant resources to obtaining U.S. clients for its private banking operations in Switzerland.

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[417] Email from Martin Liechti re "Happy New Year" (undated).

[418] "KeyClients in NAM: Business Case 2003-2005," at 4.

[419] Id. at 5.

Massive Machine. Mr. Birkenfeld told the Subcommittee that the overall effort of the UBS Swiss private banking operation to secure U.S. clients was the most extensive he had observed in his 12 years working in Swiss private banking. He stated:

> "This was a massive machine. I had never seen such a large bank making such a dedicated effort to market to the U.S. market. And from my understanding and my work experience in Switzerland, it was the largest bank with the largest number of clients and assets under management of U.S. clients."[420]

He said that the Swiss bankers he worked with typically had an "existing book of business," that included numerous U.S. clients and had "a very regimented cycle of going out and acquiring new clients, taking care of your existing clients, make sure the revenue was there."[421] He described one private banker who saw as many as 30 or 40 existing clients on a single trip.[422] He estimated that the UBS Swiss bankers in the Geneva office where he worked maintained thousands of Swiss accounts for U.S. clients.[423]

When asked what motivated U.S. clients to open accounts in Switzerland instead of banking with UBS in their home country, Mr. Birkenfeld gave two reasons: "Tax evasion. ... And most of the time, people always liked the idea that they could hide some from their spouse or maybe a business partner or what have you, because the secrecy of having a bank account in Switzerland gave them anonymity and discretion."[424] When asked whether he ever said to his U.S. clients, "You don't have to pay taxes," or whether that was just understood, Mr. Birkenfeld responded, "It was clearly understood. Clearly understood."[425]

(4) Servicing U.S. Clients with Swiss Accounts

UBS not only allowed U.S. clients to open undeclared accounts in Switzerland and assured them it would not disclose these accounts unless compelled by law, UBS also took steps to ensure that its Swiss bankers serviced their U.S. clients in ways that minimized disclosure of information to U.S. authorities. These measures included refraining from mailing Swiss account information into the United States, ensuring Swiss bankers traveling to the United States carried minimal or encrypted client account information, and providing training to help its bankers avoid surveillance by U.S. authorities.

In his deposition, Mr. Birkenfeld indicated that, during his tenure at UBS from 2001 to 2005, he worked closely with Swiss bankers who were servicing U.S. clients in the United States. He said the Swiss bankers he worked with typically had an "existing book of business," with numerous U.S. clients, and had "a very regimented cycle of ... taking care of your existing

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[420] Birkenfeld deposition at 46.

[421] Id. at 76.

[422] Id. at 121.

[423] Id. at 71.

[424] Id. at 33.

[425] Id. at 151.

clients, mak[ing] sure the revenue was there."[426] He said: "So getting out into the field as we called it, was very, very important. You had to travel. Traveling was critical; otherwise the client would say, 'What do you mean you're not coming to visit me? What's wrong?' So, you know, you don't want to upset the client."[427]

Mr. Birkenfeld told the Subcommittee that, to his knowledge, almost all U.S. clients with Swiss accounts declined to have their account statements mailed to them in the United States.[428] Instead, UBS held client mail in Switzerland until the client was able to view the account documentation in person, after which the information was shredded. He explained:

> "You paid 500 francs a year to have all of the statements and all of the transactions held in their folder, sealed, so when they came to the bank, 6 months, a year later, they could come and look at it, go through it, and then we would shred it .... So I've had some clients who would sit there for an hour or two hours, and then they come back and say, 'Okay. Everything's fine.' And they'd give the documents and say, 'You can shred them.' And we'd go and take it in the big shredding room and just shred everything. And then you'd start from zero again."[429]

Mr. Birkenfeld said that, in between visits to Switzerland to review their account information, many U.S. clients expected their Swiss banker to visit them in the United States and provide updated information about their accounts. He said that, prior to a business trip in which they planned to meet with specific clients, UBS Swiss private bankers typically collected and reviewed the relevant client account information. He said that the Swiss bankers did not normally bring the actual account statements with them into the United States, but took elaborate measures to disguise or encrypt client information to prevent it from falling into the wrong hands. He said, for example, some bankers kept "cryptic notes" on each account and took only those notes into the United States.[430] He described one Swiss banker who directed his assistant to transcribe by hand the information in his clients' account statements onto spreadsheets, omitting any identifying information other than a code name, and then sent the handwritten spreadsheets by overnight mail to his hotel in the United States, after which he would provide the spreadsheets to his U.S. clients in individual meetings.[431] Mr. Birkenfeld described other Swiss private bankers who brought into the United States UBS-supplied laptop computers, referred to as TAS computers, programmed to receive only highly encrypted information that, allegedly, [e]ven if the [U.S.] Customs opened it, for instance, they wouldn't see anything."[432] He said

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[426] Birkenfeld deposition at 76.

[427] Id. at 76-77.

[428] Id. at 61.

[429] Id.

[430] Id. at 55.

[431] Id. at 121-122.

[432] Id. at 56-57.

that the TAS computers could be used to "access the client's private bank statements from America and print them out, as well as view and print out product offerings."[433]

UBS cautioned its bankers, when traveling to the United States, to take measures to safeguard client information and supplied the TAS computers that some Swiss bankers used. A 2004 UBS policy statement provides: "When traveling cross-border, UBS AG employees always must remember that all clients of UBS AG expect us to take all necessary steps to safeguard confidentiality. Client advisors are referred to separate guidance on the protection of confidential information and other available resources that may assist."[434] Mr. Birkenfeld told the Subcommittee that UBS also cautioned its Swiss bankers to keep a low profile during their business trips to the United States so they would not attract attention from U.S. authorities. He noted, for example, that UBS business cards did not include a reference to a private banker's involvement in "wealth management."[435] He also said that some UBS Swiss private bankers who visited the United States on business told U.S. customs officials that they were instead in the country for "pleasure."[436]

Documentation obtained by the Subcommittee indicates that UBS also provided training to its client advisors on how to detect – and avoid – surveillance by U.S. customs agents and law enforcement officers. An undated UBS training document entitled, "Case Studies Cross-Border Workshop NAM" provides a series of scenarios designed to train its personnel.[437] An excerpt from one of the scenarios is as follows:

> "After passing immigration desk during your trip to USA/Canada, you are intercepted by the authorities. By checking your Palm, they find all your client meetings. Fortunately you stored only very short remarks of the different meetings and no names.
>
> "As you spend around one week in the same hotel, the longer you stay there, the more you get the feeling of being observed. Sometimes you even doubt if all of the hotel employees are working for the hotel. A lot of client meetings are held in the suite of your hotel.
>
> "One morning you are intercepted by an FBI-agent. He looks for some information about one of your clients and explains to you, that your client is involved in illegal activities.

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[433] Id. at 55. See also reference to TAS in UBS Minutes of a May 2003 meeting of the Geneva Private Bank North America International group (5/14/03), Bates Nos. PSI-OPB-119-20 at 119.

[434] "Cross-Border Banking Activities into the United States **(version November 2004)**," prepared by UBS, Bates Nos. PSI-OPB, at 104 (emphasis in original).

[435] Birkenfeld deposition, at 158. See also UBS Minutes of a May 2003 meeting of the Geneva Private Bank North America International group (5/14/03) at 2 ("Do not indicate Wealth Management but only UBS AG on the new business cards").

[436] Birkenfeld deposition, at 166.

[437] Case Studies Cross-Border Workshop NAM, (undated) (emphasis in original). "NAM" refers to the North American division at UBS Switzerland.

"Question 1: What would you do in such a situation?

"Question 2: What are the signs indicating that something is going on?"

The document does not indicate UBS' preferred responses to these questions.

Mr. Birkenfeld told the Subcommittee that the UBS Swiss offices also employed techniques to help existing U.S. clients transfer money into and out of their accounts without identifying documentation. He noted, for example, that while he was at UBS, the bank typically wired funds and engaged in securities transactions without including client-specific information; instead the bank typically stated on the required documentation that the transaction was "on behalf of UBS for one of our clients."[438] He indicated that as the European Union tightened the rules for wire transfers, requiring the originating bank to identify the beneficial owner of the assets involved in a transaction, UBS increasingly restricted its Swiss bankers' use of wire transfers.[439] He said that UBS began to require clients to fly to Switzerland to withdraw cash from an account.

The Statement of Facts in the Birkenfeld criminal case describes additional actions taken by UBS bankers to help U.S. clients manage their Swiss accounts without alerting U.S. authorities. It states, for example, that UBS bankers advised U.S. clients to withdraw funds from their accounts using Swiss credit cards that "could not be discovered by United States authorities"; to "destroy all off-shore banking records existing in the United States"; and to "misrepresent the receipt of funds from the Swiss bank account in the United States as loans from the Swiss Bank."[440] The Statement of Facts also discloses that, on one occasion, "at the request of a U.S. client, defendant Birkenfeld purchased diamonds using that U.S. client's Swiss bank account funds and smuggled the diamonds into the United States in a toothpaste tube," presumably so that the U.S. client could obtain possession of his Swiss assets without alerting U.S. authorities.[441] It also states that Mr. Birkenfeld and his business associate Mario Staggl "accepted bundles of checks from U.S. clients and facilitated the deposit of those checks into accounts at the Swiss bank" and elsewhere, presumably to assist the clients in making transfers to their Swiss accounts, again without alerting U.S. authorities.[442]

Hold mail accounts, encrypted computers, wire transfers without client names, Swiss credit cards, requirements that clients travel outside of the United States to get information about their accounts – the consistent element in all of these UBS techniques is the effort to help U.S. clients hide assets sent to Switzerland. These UBS procedures, practices, and policies can also facilitate, and in some cases have resulted in, tax evasion by the bank's U.S. clients.

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[438] Birkenfeld deposition, at 247.

[439] Id. at 251.

[440] Birkenfeld Statement of Facts, at 3.

[441] Id. at 4.

[442] Id.

(5) Violating Restrictions on U.S. Activities

The UBS practices just described, related to Swiss banker activities undertaken in the United States to recruit and service U.S. clients, may have violated U.S. law as well as UBS policy. As explained earlier, U.S. securities and banking laws prohibit non-U.S. persons from advertising securities services or products, executing securities transactions, or performing banking services within the United States, without an appropriate license. Moreover, U.S. tax laws may require a foreign financial institution to report to the IRS on 1099 Forms sales of non-U.S. securities effected in the United States, such as by executing a transaction by a broker physically in the United States or ordering the completion of a transaction through telephone calls or emails originating from the United States.

It was to avoid violating U.S. law, exceeding its licensed activities, or triggering 1099 reporting requirements, that caused UBS to issue policy statements restricting the activities that its non-U.S. bankers could undertake while in the United States. Its 2002 and 2004 policy statements, for example, prohibited UBS Swiss bankers, while in the United States, from advertising securities products to their clients, informing clients of how their security portfolios were performing, providing copies of account statements, or using U.S. mails, faxes, telephone calls or email to discuss a client's securities portfolio.[443] UBS also prohibited its Swiss bankers from prospecting for new clients while in the United States, soliciting new accounts, or obtaining signatures on account opening documentation.

Despite these prohibitions, it appears that UBS Swiss bankers in the United States servicing U.S. clients routinely undertook actions that contravened the UBS restrictions. Mr. Birkenfeld described, for example, an art festival sponsored by UBS in Miami each year, which he attended with other Swiss bankers for the express purpose of soliciting new accounts. "We went to these events. We went to dinners, we went to art exhibitions, we went to private homes as private bankers, knowingly by management that they were paying for our hotel, paying for our airfare, paying us our salary, and getting us tickets to the UBS VIP tent to drink champagne with clients."[444] He testified that he witnessed Swiss bankers soliciting new accounts and completing account opening documentation while in the United States. He testified that in some cases, "instead of saying, 'I signed it in New York,' they brought the forms back to Geneva and they put in 'Geneva.'"[445] When asked whether he had promoted securities products during his trips to the United States, he responded, "We were promoting anything."[446]

Mr. Birkenfeld also told the Subcommittee that UBS Swiss bankers routinely communicated with their U.S. clients about the status of their accounts, including their securities portfolios. He said that some Swiss private bankers communicated with their U.S. clients by

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[443] See "Wealth Management and Business Banking Client Advisor's Guidelines for Implementation and Management of Discretionary Asset Management Relationship with U.S. Clients," (undated but likely late 2001); "Cross-Border Banking Activities into the United States **(version November 2004)**," prepared by UBS, Bates Nos. PSI-OPB, at 103-105 (emphasis in original).

[444] Birkenfeld deposition, at 114.

[445] Id. at 115, 125.

[446] Id. at 111.

telephone or fax, or by sending occasional documents to them in the United States by overnight mail.[447] He said the bankers sometimes used code names during the telephone calls, so that the U.S. client would not have to identify themselves by name, in case anyone was listening.[448] He said that U.S. clients generally did not like sending or receiving emails via computer, "because they didn't want that link, for obvious reasons."[449] Nevertheless, some clients did use email, as shown in the case involving Mr. Birkenfeld and Mr. Olenicoff, examined further below. Mr. Birkenfeld also described how Swiss bankers brought into the United States information about clients' accounts and securities portfolios. He told the Subcommittee that his day-to-day interactions with clients were in direct contradiction to the restrictions set out in UBS' policy statements. He indicated those policies simply were not enforced while he was at the bank.[450]

2007 UBS Restrictions on U.S. Activities. In June 2007, UBS issued a new version of its policy statement restricting activities in the United States by its non-U.S. bankers.[451] This document repeated the prohibitions in the 2004 policy statement, while adding extensive new restrictions. For example, the 2007 policy statement states that, while non-U.S. UBS bankers could continue to travel to the United States, "[t]ravels must be kept to a minimum," and each traveling officer must be trained in and sign a certificate confirming compliance with the travel restrictions, inform his or her superior prior to a trip of planned events and clients to be visited, and report after the trip to the supervisor about all trip developments.[452] The policy statement goes on to state that "UBS will abstain from any active prospecting of any U.S. based persons," although it would continue to accept referrals from existing clients or "U.S. Licensed Officers."[453] In addition, it states that non-U.S. UBS bankers "must abstain from any activity that could be construed as soliciting securities or banking business from persons located in the United States," and "must not give any advice to prospective or existing clients on how to evade taxes or circumvent any other relevant restrictions."[454]

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[447] Id. at 60.

[448] Id. at 63-64.

[449] Id. at 61.

[450] Mr. Birkenfeld told the Subcommittee that he was not even aware of the restrictions until May 2005, when a colleague showed him the 2004 policy statement on an internal UBS computer system. He said that after being shown the 2004 policy statement, he sent emails, in June 2005, to the UBS legal and compliance divisions asking about the contradiction between the policy statement and his day-to-day activities. He provided copies of these emails, which he said were never responded to in writing. Birkenfeld deposition, at 108-109, 125-26. He told the Subcommittee that he also brought the issue to the attention of his immediate supervisor whom he said, "yelled at me and said, 'Why are you getting everyone riled up?'" Id. at 126-27. He testified that he then brought the 2004 policy statement to two outside law firms, both of which advised him to resign. Id. at 127. Mr. Birkenfeld resigned from UBS in October 2005.

[451] See "Restrictions on Cross-Border Banking and Financial Services Activities: Country Paper USA (Effective Date June, 1st, 2007)," (otherwise undated).

[452] Id. at 4.

[453] Id. at 8.

[454] Id. at 5, 6 (emphasis in original).

2007 Travel Ban to the United States. In November 2007, UBS went further, essentially ending all travel by its Swiss bankers to the United States to solicit new business.[455] UBS stated in an internal memorandum that it had decided "to realign the business model for U.S. clients by focusing our resources on our wealth management operations based in the United States ... and UBS Swiss Financial Advisors in Zurich."[456] UBS materials stated that UBS would permit "new account opening for securities related services only within those units"[457] and would service existing U.S. clients only when those clients were outside of the United States and, for example, visiting Switzerland or utilizing telephone calls, faxes or other communication systems from outside the United States.[458] A document providing talking points to UBS bankers on how to inform their U.S. clients about the new policy suggests telling them: "Client advisors, including myself, will no longer be traveling outside of Switzerland to meet you. ... [W]e will not be able to communicate with you about your securities account when you are in the United States. ... [W]e will not be able to execute your securities instructions if we are not satisfied that you are outside the U.S. when giving such orders."[459]

The talking points also indicate that for a client who asked: "If I decide to transfer my assets to SFA [Swiss Financial Advisers], will Swiss client confidentiality still apply?," the recommended response was: "An SFA representative would be the best person to answer that question, but my understanding is that, although your information would be reported to the IRS and potentially available to the SEC, it otherwise generally would be covered by Swiss financial privacy protections."[460] For a client who asked: "What if I do not want U.S. tax reporting services or to supply a W-9?," the recommended response was: "Then you may retain your current account subject to the modifications I just described."[461] Those modifications included keeping all communications about the account outside of the United States.

According to UBS, the new policy, including the travel ban, became effective in November 2007, although a few previously planned business trips to the United States were allowed in December. UBS informed the Committee that, since January 2008, none of its Swiss private bankers has made a business trip to the United States.[462]

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[455] See, e.g., UBS internal memorandum addressed to "Colleagues" regarding "Changes in business model for U.S. private clients," (11/15/08).

[456] Id. at 1.

[457] Id.

[458] UBS prepared document with the heading, "Privileged and Confidential: Letters to Existing U.S. Clients with More than CHF 50,000 Who have Not been Informed Orally either to Retained Mail or Send to Non-U.S. Address," (undated but likely in or after November 2007) (heading using all capital letters converted to initial capital format) (apparent form letter providing guidance to U.S. clients on the November 2007 policy).

[459] UBS prepared document with the heading, "Talking Points for Informing U.S. Private Clients with Securities Holdings about the Realignment of our Business Model Plus Q&A," (undated but likely in or after November 2007) (heading using all capital letters converted to initial capital format).

[460] Id. at 3.

[461] Id. at 1-2.

[462] Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

Contrary to this representation by UBS, however, a Subcommittee review of the relevant travel data for the Swiss bankers determined that, from January to April 2008, UBS client advisors made twelve trips to the United States, travelling from Switzerland to New York, Miami, San Francisco, and Las Vegas. The Customs I-94 Forms indicate that, on half of these trips, the Swiss bankers indicated they were travelling for business purposes, while on the other half, the Swiss bankers indicated they were travelling to the United States for non-business purposes. With respect to Mr. Liechti, head of the UBS Wealth Management Americas division, the I-94 Form shows that he arrived in the United States on April 20, 2008, on business. There is no record of his departure to date.

The clear contrast between the UBS policy restrictions dating back to at least 2002, and the activities undertaken by UBS Swiss bankers while traveling in the United States, as described by Mr. Birkenfeld in his deposition, in connection with his recent indictment, and in internal UBS documents, suggests that until recently, the UBS restrictions were not being enforced. This lack of enforcement, in turn, raises concerns that UBS Swiss bankers with U.S. clients may have been routinely violating not only the bank's internal policies, but also U.S. law. UBS is currently under investigation by the SEC, IRS, and Department of Justice regarding the activities of its Swiss bankers in the United States.

C. Olenicoff Accounts

Concerns raised by the activities of UBS Swiss bankers servicing accounts for U.S. clients are further illustrated by the UBS accounts opened in Switzerland by Mr. Birkenfeld for Igor Olenicoff.

Mr. Olenicoff is a billionaire real estate developer, U.S. citizen, and resident of California and Florida.[463] He is President and owner of Olen Properties Corporation. From 1992 until 2005, Mr. Olenicoff opened multiple accounts at banks in the Bahamas, England, Liechtenstein, and Switzerland. These accounts were opened in the name of multiple offshore corporations he controlled, including Guardian Guarantee Co., Ltd., New Guardian Bancorp ApS, Continental Realty Funding Corp., National Depository Corp., Sovereign Bancorp Ltd., and Swiss Finance Corp.[464] Some of his accounts were opened at UBS in Switzerland, and for a time, Mr. Olenicoff was Mr. Birkenfeld's largest private banking client.

In 2007, Mr. Olenicoff pled guilty to one criminal count of filing a false income tax return by failing to disclose the foreign bank accounts he controlled.[465] He was sentenced to two years probation and 120 hours of community service, and paid about $52 million to the IRS for six years of back taxes, interest, and penalties owed on assets and income hidden in foreign bank

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[463] See pleadings in United States v. Olenicoff, Case No. SA CR No. 07-227-CJC (C.D. Cal.) (hereinafter "United States v. Olenicoff"); and United States v. Birkenfeld.

[464] United States v. Olenicoff, Plea Agreement for Defendant Igor M. Olenicoff (12/10/07) (hereinafter Olenicoff Plea Agreement), at 4.

[465] Id.

accounts.[466] In 2008, Mr. Birkenfeld pled guilty to conspiring with Mr. Olenicoff to defraud the IRS and avoid payment of taxes owed on about $200 million in assets transferred to accounts in Switzerland and Liechtenstein.[467]

The Subcommittee obtained a number of documents related to the Olenicoff and Birkenfeld matters which help illustrate the actions taken by UBS private bankers and others to help U.S. clients conceal their assets and evade U.S. taxes.

Account Opening. Mr. Birkenfeld told the Subcommittee that he first heard Mr. Olenicoff's name while working at Barclays Bank.[468] In 2001, soon after he began working for UBS, he contacted Mr. Olenicoff in California, flew to California for a meeting with Mr. Olenicoff and his son, and persuaded them to move their account to UBS in Switzerland.[469]

Mr. Olenicoff told Mr. Birkenfeld that he would like to open the UBS account in the name of Guardian Guarantee Corp. (GGC), one of the Bahamas corporations he controlled.[470] Mr. Birkenfeld provided the account opening documentation to Mr. Olenicoff in California, and to a Bahamas firm that administered GGC.[471] Mr. Olenicoff returned the completed forms.[472] On a UBS form that asked for the identity of the "beneficial owner of the assets" to be deposited into the account, Mr. Olenicoff identified GGC as the beneficial owner and listed himself and his son as the "contracting partners" who would inform UBS of any ownership change.[473] Mr. Olenicoff also made himself and other family members account signatories.[474] Mr. Birkenfeld agreed to open the account on those terms, even though he knew Mr. Olenicoff was the true beneficial owner of the assets, and the Bahamas corporation was being used to conceal that ownership.

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[466] See "California Real Estate Developer Sentenced for Filing a False Tax Return and Failure to Disclose Foreign Bank Accounts to IRS," in "Examples of General Tax Fraud Investigations FY2008," Internal Revenue Service, http://www.irs.gov/compliance/enforcement/article/0,,id=174630,00.html (viewed 7/14/08).

[467] Birkenfeld Statement of Facts.

[468] According to Mr. Birkenfeld, Mr. Olenicoff had been a client at Barclays Bank in the Bahamas. Mr. Birkenfeld was then working for Barclays Bank in Switzerland. He said that, after joining the QI Program in 2001, Barclays decided to close all of its Bahamas accounts with U.S. clients, including Mr. Olenicoff. Mr. Birkenfeld said that the Barclays account manager in the Bahamas telephoned him to see if the Swiss office could accept the Olenicoff account. Mr. Birkenfeld said that he was then in the process of changing jobs from Barclays to UBS. Birkenfeld Deposition at 206-209.

[469] Birkenfeld deposition at 206-209; email from Mr. Birkenld to Mr. Olenicoff and his son (7/26/01), Bates No. SW 67087.

[470] See, e.g., email from Mr. Olenicoff to Mr. Birkenfeld (10/11/01), Bates Nos. SW 66660-61.

[471] Olenicoff Plea Agreement, at 4; Birkenfeld Statement of Facts, at 5; handwritten note from Mr. Birkenfeld (undated), Bates No. SW 67527; letter from McKinney, Bancroft & Hughes of the Bahamas to Mr. Olenicoff (10/17/01), Bates No. SW 17013.

[472] Letter from Mr. Olenicoff to Mr. Birkenfeld, (10/23/01), Bates No. SW 66645.

[473] UBS Verification of the beneficial owner's identity, signed by Mr. Olenicoff and his son, (10/23/01), Bates No. SW66648. Another document identified Mr. Olenicoff as GGC's president and his son as GGC's secretary. UBS Authorized signatories (10/23/01), Bates No. SW 66649.

[474] UBS Authorized signatories (10/23/01), Bates No. SW 66649.

As part of the account opening process, Mr. Olenicoff and his son signed a UBS form that "instruct[ed] UBS AG with respect to the above mentioned account not to invest in or hold US securities within the meaning of the relevant Qualified Intermediary Agreement."[475] By ruling out U.S. security investments, the Olenicoffs ensured that the account would not be reported to the IRS under the QI Program. In December 2001, Mr. Olenicoff transferred about $89 million from Barclays Bank in the Bahamas to the new GGC account at UBS in Switzerland.[476]

Restructuring Olenicoff Assets. To help develop the Olenicoff account, Mr. Birkenfeld enlisted the services of Mario Staggl, part owner of a Liechtenstein trust company, New Haven Treuhand AG. In November 2001, Mr. Olenicoff and his son travelled to Liechtenstein and met with Mr. Staggl and his partner, Klaus Biedermann.[477] During that meeting and in subsequent discussions, Mr. Olenicoff sought advice on how to restructure his offshore assets, taking into consideration the twin goals of avoiding taxes and maintaining "anonymity."

The documents show that a number of proposals were considered. In one email, Mr. Staggl stated: "The shares in OLEN US are 'owned' by the Bahamian Company. In order to avoid any potential exposure in a tax point of view we would recommend to transfer the Bahamian company shares into a Danish Holding Company. The Danish Holding Company would be owned by the first of the Liechtenstein Trusts."[478] He also wrote:

> "The cash available for UBS and Neue Bank can basically be held by the second Liechtenstein Trust. ... There is an easy way to get around [VAT taxes] by interposing an 'off-shore' jurisdiction since services rendered and charged to non Swiss or non Liechtenstein entities are not liable to VAT. We would recommend the second Liechtenstein Trust being the shareholder of the investment 'off-shore' vehicle. The jurisdiction could be the British Virgin Islands (BVI), Panama, Gibraltar. ... The administration would be looked after by New Haven in Liechtenstein. The second advantage of interposing the 'off-shore' vehicle would lead to another 'saf[e]ty-break' in a tax and anonymity aspect."[479]

Mr. Olenicoff responded in part by stating: "It is the preference of the current holder of the stock, a Bahamian Corporation to move the ownership to an onshore entity, but one which provided complete anonymity as to the beneficial owners."[480] In a later email, Mr. Staggl observed: "Subsequent to our telephone discussion of last week your most recent e-mail made it

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[475] UBS waiver of right to invest in U.S. securities, signed by Mr. Olenicoff and his son (10/23/01), Bates No. SW 66652.

[476] Olenicoff Plea Agreement, at 4.

[477] See email from Mr. Olenicoff to Mr. Staggl, (12/1/01), Bates No. SW 65109 ("we all enjoyed our stay in your beautiful country").

[478] Email from Mr. Staggle to Mr. Olenicoff re "Various," (12/4/01), Bates No. SW 65110.

[479] Id. See also Birkenfeld Statement of Facts, at 5.

[480] Email from Mr. Olenicoff to Mr. Staggl re "Structure Discussion," (12/8/01), Bates No. SW 65111.

very clear to me – you want to become on-shore – but still maintain an off-shore status in tax and protection point of view."[481]

In late 2001, Mr. Olenicoff authorized Mr. Staggl's trust company, New Haven, to establish a Liechtenstein trust, The Landmark Settlement, and a Danish corporation, New Guardian Bancorp, on his behalf. Mr. Staggl caused to be executed a "Letter of Intent" which stated that New Haven would hold the trust property for the benefit of Mr. Olenicoff and, after his demise, for his children.[482] Mr. Staggl wrote to Mr. Olenicoff:

> "First, we will establish the Liechtenstein Trust to be known as 'The Landmark Settlement.' All the information we need in order to proceed are available at our offices. New Haven will be the trustee. Sheltons, our correspondent in Danemark, agreed to incorporate 'New Guardian Bancorp' wholly owned by the Liechtenstein 'The Landmark Settlement.'"[483]

At Mr. Olenicoff's direction, Mr. Birkenfeld arranged a transfer of $40,000 from the GGC account at UBS to finance the set up of the two new entities.[484] Mr. Olenicoff then opened accounts in the name of New Guardian Bancorp (NBG) at UBS in Switzerland and in the name of NBG and Landmark Settlement at Neue Bank in Liechtenstein.

In January 2002, Mr. Olenicoff's companion, Jeanette Bullington, opened a personal account at UBS in Switzerland.[485] As part of the account opening documentation, she signed one document instructing UBS not to invest her funds in U.S. securities "within the meaning of the relevant Qualified Intermediary Agreement."[486] She signed another stating: "I am aware of the new tax regulations. To this end, I declare that I expressly agree that my account shall be frozen for all investments in US securities."[487] These documents appear designed to ensure her account would not be disclosed to the IRS under the QI Program.

Transferring U.S. Securities Portfolio. In March 2002, Mr. Birkenfeld and Mr. Staggl helped Mr. Olenicoff transfer $60 million in U.S. securities from a "Smith Barney portfolio" to the NGB account at Neue Bank in Liechtenstein. Mr. Staggl explained that the transfer could go directly to NGB or, alternatively, to Landmark Settlement which owned NGB, but advised against sending the securities to an account opened in Mr. Olenicoff's personal name, since that could "jeopardize" the structure by exposing his association with the assets:

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[481] Email from Mr. Staggl to Mr. Olenicoff re "Structure," (Jan. 2002), Bates No. SW 67200.

[482] Birkenfeld Statement of Facts, at 5.

[483] Email from Mr. Olenicoff to Mr. Staggl re "Structure," (1/8/02), Bates No. SW 65103. See also Danish Commerce and Companies Agency Extract for New Guardian Bancorp ApS, (1/18/02), Bates No. SW 66922.

[484] See, e.g., email from Mr. Olenicoff to Mr. Birkenfeld authorizing transfer, (12/27/01), Bates No. SW 67081.

[485] UBS Verification of beneficial owner's Identity, (1/22/02), Bates No. SW 66974.

[486] UBS Waiver of right to invest in US securities, (1/22/02), Bates No. SW 66977.

[487] UBS Supplement for new Account US Status: Assets and Income/Declaration for US Taxable Persons, (undated but likely 1/22/02), Bates No. SW 66982.

> "[T]he transfer of the Smith Barney portfolio to Neue Bank ... would be [in] no danger or exposure whatsoever. ... [T]o put your mind at rest, the portfolio arriving from Smith Barney will be put into Landmark Settlement account held with Neue Bank for the time being. ... I would not recommend to open a personal account in your name since this could potentially jeopardize the structure. For the time being you and Andrei are signatories on Landmark Settlement's bank account with Neue Bank. You may remember that you signed blank account signature cards for Neue Bank at the occasion of our meeting in Liechtenstein and one card has been used for New Guardian Bancorp and the other for Landmark Settlement."[488]

In April 2002, Mr. Staggl provided Mr. Olenicoff with wire transfer instructions to move the $60 million in U.S. securities directly to the NGB account at Neue Bank. The wire transfer instructions specified, however, that Smith Barney send the securities to "Neue Bank" without specifying the ultimate recipient of the securities. Mr. Staggl's email explained: "For secrecy purpose, there is no need to mention 'New Guardian Bancorp. Aps', but, if you prefer to do so the name of the beneficiary can be mentioned."[489] The transfer took place in April.[490] Although the Neue account afterwards contained substantial U.S. securities, the account was apparently never disclosed to the IRS under the QI Program.

Many other documents reviewed by the Subcommittee demonstrate Mr. Olenicoff's direct control of the UBS accounts opened in the names of GCC and NBC and the millions of dollars in assets held within those accounts. For example, on several occasions Mr. Olenicoff directed Mr. Birkenfeld to open new accounts for the corporate entities, move substantial funds from one UBS account to another, and close two of the accounts after a new one had been opened.[491] On another occasion, Mr. Olenicoff appears to have transferred substantial real estate assets in the United States from an entity he controlled in the Bahamas, National Depository Company, Ltd., to the Landmark Settlement in Liechtenstein.[492] On still another occasion, Mr. Olenicoff authorized Mr. Birkenfeld to issue five UBS credit cards for one of the UBS corporate accounts, and then appears to have cancelled those cards two weeks later.[493]

By 2005, Mr. Olenicoff had transferred a total of about $200 million in assets into the Swiss and Liechtenstein accounts opened in the name of entities that he controlled. Although

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[488] Email from Mr. Staggl to Mr. Birkenfeld and Mr. Olenicoff re "New Guardian – Status," (3/7/02), Bates No. SW 67196.

[489] Email from Mr. Staggl to Mr. Olenicoff re "Smith Barney Transfer," (4/23/02), Bates No. SW 65120; Email from Mr. Olenicoff to Mr. Staggle re "Smith Barney Transfer," (4/25/02); Bates No. SW 67331.

[490] Olenicoff Plea Agreement, at 4-5.

[491] See, e.g., letter from Mr. Olenicoff to Mr. Birkenfeld, (4/6/02), Bates No. SW 66782; Letter from Andrei Olenicoff to Mr. Birkenfeld, (9/3/02), Bates No. SW 67659.

[492] See, e.g., email from Mr. Staggl to Mr. Olenicoff, with copy to Mr. Birkenfeld, (6/8/04), Bates No. SW 16153; letter from Andrei Olenicoff to Mr. Staggl, (undated), Bates Nos. 67934-37).

[493] Birkenfeld Statement of Facts, at 5; Letter from Mr. Olenicoff to Mr. Birkenfeld, (3/25/02), Bates No. SW 66783 (authorizing $100,000 to be transferred to a new UBS account to allow "issuance of the five credit cards we discussed"); letter from Mr. Olenicoff to Mr. Birkenfeld, (4/6/02), Bates No. SW 66782 (cancelling the five credit cards two weeks later).

Mr. Olenicoff clearly exercised control over the UBS accounts and assets, Mr. Olenicoff never submitted a W-9 Form to UBS admitting he was the beneficial owner, and UBS never filed a 1099 Form with the IRS reporting the accounts. As Mr. Birkenfeld put it, when asked if the accounts were undeclared, he responded, "Yes. Every bit."[494]

In 2005, after Mr. Birkenfeld left UBS, he and Mr. Staggl met with Mr. Olenicoff in Liechtenstein and advised him to transfer his assets from UBS to Neue Bank in Liechtenstein, "because Liechtenstein had better bank secrecy laws than Switzerland." Mr. Olenicoff agreed, and transferred his assets from UBS to Neue Bank that year.[495]

By 2007, Mr. Olenicoff's offshore assets had been discovered by the IRS. By the end of the year, he had pled guilty; Mr. Birkenfeld pled guilty by mid-2008. Mr. Staggl, who is under indictment for his role in managing the Olenicoff assets, remains at large in Liechtenstein and has been declared by the U.S. Government to be a fugitive.

The Olenicoff accounts at UBS were open for about four years, from 2001 until 2005. During that time, Mr. Birkenfeld has admitted that he conspired with Mr. Olenicoff to help him evade U.S. taxes by hiding his assets in Switzerland and Liechtenstein. To accomplish that end, Mr. Birkenfeld assisted Mr. Olenicoff in forming a Liechtenstein trust and Danish corporation by directing him to a Liechtenstein trust company that offered formation services, opening UBS accounts in the names of those entities, allowing Mr. Olenicoff to omit his beneficial ownership of the account assets on internal UBS forms, and helping him circumvent disclosure of the accounts to the IRS under the QI Program by signing forms instructing UBS not to purchase U.S. securities for those accounts. Mr. Birkenfeld allowed Mr. Olenicoff to transfer tens of millions of dollars from other offshore accounts into the new UBS accounts, with no apparent questions about the source of the funds. He took instructions from Mr. Olenicoff about how to invest the funds in the UBS accounts, using email, letters, and faxes to and from the United States, even though Mr. Birkenfeld was not licensed to handle securities in the United States.

The Subcommittee does not know the extent to which Mr. Birkenfeld's actions were typical of UBS Swiss bankers; it has been unable to obtain internal UBS account documentation comparable to the documentation obtained from LGT. Mr. Birkenfeld told the Subcommittee that he did not view his actions as out of the ordinary. If true, the Olenicoff case history may be one of many within UBS Swiss operations that raise concerns.

D. Analysis

Unlike LGT, UBS did not generally refrain from conducting banking operations within the United States. UBS Swiss bankers targeted U.S. clients, traveled across the country in search of wealthy individuals, and aggressively marketed their services to U.S. taxpayers who might otherwise never have opened Swiss accounts. UBS practices resulted in its U.S. clients maintaining undeclared Swiss accounts that collectively held billions of dollars in assets that were not disclosed to the IRS. UBS serviced these accounts, in part, by offering banking and

[494] Birkenfeld Deposition, at 209.

[495] Birkenfeld Statement of Facts, at 6; Birkenfeld deposition, at 209-210.

securities products and services within the United States that UBS Swiss bankers were not licensed to provide. Swiss bank secrecy laws hid not only the misconduct of U.S. taxpayers hiding assets at UBS in Switzerland, but also the actions taken by UBS bankers to assist those U.S. clients.

UBS has now stopped all travel by its Swiss bankers to the United States, issued more restrictive policies, and is conducting an internal review to gauge the nature and extent of the problem. UBS also cooperated with this Subcommittee in its efforts to gain a full understanding of the facts and issues.

# # #

Reeves Declaration
Exhibit 3

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Review of US Resident Non-W9 Business

Legal and Compliance

Strictly Private, Privileged and Confidential
Document Created By In House Counsel For the Purpose of Legal Advice

To: Bernard Buchs, Chief Compliance Officer WM&BB;
Ursula Suter, General Counsel WM&BB;

Version	Discussion Draft 1.2
Status	
Author(s)	J Watson, UBS WM&BB Risk and Compliance; F Zimmermann, WM&BB Legal.
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Classification	Strictly Private, Privileged and Confidential

GOVERNMENT EXHIBIT 3

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1. Introduction

1.1 Introduction and Background

This report has been prepared by the Legal and Risk & Compliance functions of UBS Wealth Management and Business Banking ("WM&BB") and looks at the extent of business that WM&BB carries out with and for Non W9 US Persons. It was prepared with the help and input of Business Sector North America ("NAM"), headed by Michel Guignard and its content has been agreed with NAM.

1.2 Scope of the Review and Approach Applied

This report focuses on business in WM&BB's booking centre Switzerland (primarily within the Wealth Management International Business Area) with Non-W9 persons **resident** in the United States (note that WM&BB also services a significant number of Non-W9-customers who are currently not residing in the US. This segment should not trigger the concerns outlined in more detail in this report but it is understood that this population creates potential change management issues). WM&BB's booking centres abroad only service a limited number of US resident Non-W9 customers. (see overview on page 6) and are subject to the same rules as Swiss booked clients. This report does not therefore consider in detail WM&BB's locations abroad nor does it consider any other businesses servicing US persons within the UBS Group such as Investment Bank, Global Asset Management or those businesses physically located in the US such as WM (USA)'s business, WM&BB's business conducted through UBS AG, New York Branch etc.

This report also focuses primarily on the risk issues arising from Securities and Exchange Commission ("SEC") oversight and / or regulations affecting business with US Resident Non-W9s. In particular, it focuses on SEC rules governing marketing and communicating into the US and dealing with US customers. Only peripherally does this paper discuss the issues arising under the US Internal Revenue Services' ("IRS") Qualified Intermediary ("QI") regime and the UBS Group's arrangements for compliance therewith. These issues were and are dealt with by specialist working groups in WM&BB. Additionally, we do not address any [redacted] - though it bears mentioning that we have obtained legal advice from outside U.S counsel [redacted]

The approach we apply is to report on status by categorising client segments along risk-relevant factors i.e. cash only clients vs those holding securities in a custody account, arrangements for mail instructions, value of assets as these impact the communication issues etc..

We have also commented briefly on related service models as far as they deal with US residents, namely: exposures in our Financial Planning and Financial Intermediary ("FIM") businesses as well as e-banking relationships. We have also reviewed the banking process end to end over the full life span of the relationship i.e. prospecting, marketing, account opening and servicing.

1.3 Key Findings / Conclusions

The number of account relationships in WM&BB in Switzerland with US residents where the account holder has not provided a W-9 is approximately 52,000 (representing CHF 17 billion in assets). The business with US Resident Non-W9s generally raises the same types of risk as WM&BB's wider cross-border businesses raise. However, it is generally accepted that due to UBS AG's US listing, wider UBS Group exposure in the US and the particular regulatory environment existing there, the risks are higher. Consequently additional mitigating

actions have been taken to further reduce the regulatory risk associated with the business with US Resident Non-W9s.

WM&BB has taken the view that the key risk arises from UBS AG in Switzerland being a non-SEC registered entity communicating with such clients in (or into) the US concerning securities. This risk has been mitigated by a number measures and factors as described in this report. These include:-

- 32,940 account relationships with US Resident non W-9 clients are cash accounts only. They are therefore not a factor in assessing risks regarding SEC compliance.

- The remaining account relationships (20,877) with US Resident non W9 clients have arrangements in place to the effect that UBS do not enter into postal or e-mail communication into the US regarding the portfolios (17,846 of these relationships have retained mail services and the rest provide addresses for correspondence outside the US). This obviously substantially limits the communications risks.

- The business has a mandate to strive hard to increase the number of relationships that require no (or little) communication into the US.

  Guidelines are in place (and training has been and continues to be provided) for Client Advisors indicating the limits of what they can do with respect to communicating into the US and with Cross-Border Banking Activities into the US generally. These guidelines (and further relevant information) can be found under http://bw.ubs.com/page/0/36/0,1080,636-80482-1-0,00.shtml. Advertising and events in the US by or on behalf of non-us entities are prohibited. Cold calling / prospecting in the us and use of us jurisdictional means is similarly clearly prohibited. Guidance on conduct of existing relationships is then provided. The attention paid in training, support of BU Americas International management and virtually daily contact between Legal / Compliance and the NAM team strongly indicates that the business is well aware of the sensitiveness of its services to US clients.

2. Historical Information

2.1 Analysis - 1999 to date

2.1.1 Background

The issue of the bank's cross-border business into the United States has been the subject of intense Legal / Compliance scrutiny for quite some time. In 1999, Legal prepared a memo outlining the US regulatory framework relevant for UBS's Wealth Management business conducted into the US from non-US offices. With UBS AG becoming a Qualified Intermediary under the IRS QI regime and the acquisition of the former PaineWebber business, such discussions were intensified and ultimately led to an in-depth analysis being undertaken at the beginning of 2001. The results of this analysis were presented to senior management in September 2001 and essentially entailed as principal recommendations:

- the establishment of an SEC-registered investment adviser subsidiary to deal with W9-customers who typically expect an active service model; and
- to curtail the bank's activities when servicing US Resident Non-W9 customers by refraining from use of US "jurisdictional means".

The first decision resulted in the creation of UBS Swiss Financial Advisers AG and the second decision in a change of the business model. It merits highlighting that the issue of the so-called "deemed sales" rules which - taking a risk based approach were ultimately regarded as being integral to UBS's compliance with its QI Agreement with the IRS - further galvanised the process to make adjustments to the then existing business models for dealing with US Resident Non-W9 clients.

2.1.2. Actions Taken

In January 2002, UBS implemented strict principles for servicing U.S customers under the heading "Deemed Sales Guidelines" (for full details see materials at http://bw.ubs.com/page/0/36/0,1080,636-80482-1-0,00.shtml). In essence, these boil down to a development of a "ring-fenced" service model for US Resident Non-W9 clients having securities accounts, i.e. retained mail instructions to be in place and no securities-related communications into the US. In addition, the business was asked to transfer as many advisory / non-discretionary clients as possible into discretionary mandates, primarily in order to address the deemed sales issue but also improve SEC / Securities Act compliance as a result of the mandatory "ring-fencing". In September 2004, Business Sector North America ("BS NAM") also established a "Competence Centre Deemed Sales" to further ensure implementation of agreed principles.

During Q2 2002, an IT-based tool was implemented in Switzerland to make sure that no securities related instructions could be given when the customer was on U.S. territory. In Q3 2002, a project was initiated to "centralise" all W9 US clients and all US Resident Non-W9 clients to designated desks with a view to creating an enhanced control environment (ensuring that those Client Advisors most familiar with the particular requirements related to dealings with such clients were involved in these relationships etc.). This project remains current and progress is tracked on an ongoing basis.

Legal / Compliance has been in constant contact with senior management BS NAM and has held various training sessions with Client Advisors on cross border banking activities into the US. Most recently, updates were provided in Q3 2004. Below is the standard presentation.

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3. Present Status

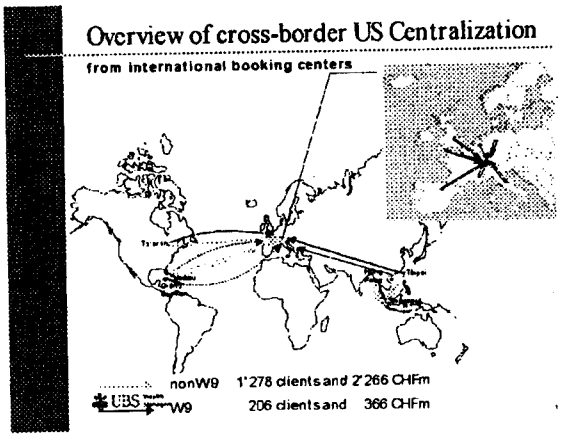
3.1 US Resident Non W9 Clients

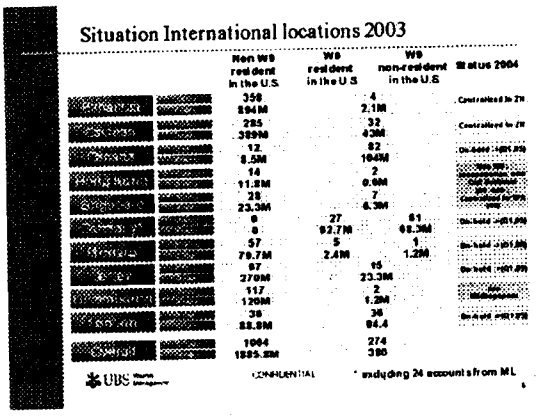
A presentation describing the breadth of the present business with US Resident Non W-9 clients has been prepared by M Guignard (Regional Market Manager BS NAM). The full presentation is embedded in this document at the end of this section and the following highlights the key aspects:

3.1.1 Centralisation Process

In general, US Resident Non-W9 clients are now centralised within WM&BB (excepting those with the Private Banks in SBC Wealth Management) in the Business Sector North Americas (Desks in Zurich, Geneva and Lugano). The centralisation process started in January 2003 and is over 90% complete. The aim of the centralisation exercise was to concentrate handling of these particularly sensitive client relationships in the area with the highest expertise.

The Centralisation Process started with the centralisation of all relevant clients to Booking Centre Switzerland from WM&BB's International booking centres as shown below.





In addition, within booking centre Switzerland, all clients were centralised to the Business Sector North Americas desks in Zurich, Geneva or Lugano:

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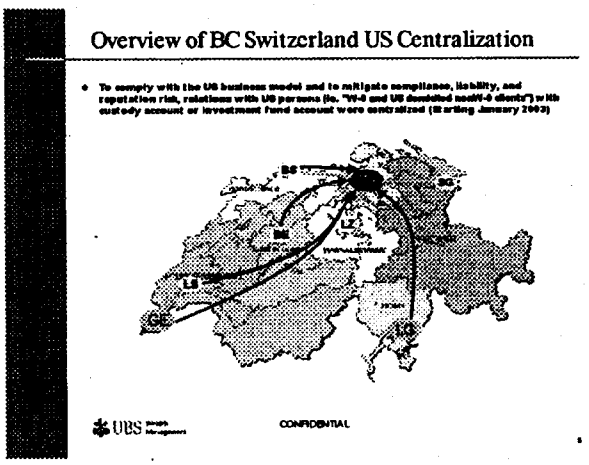
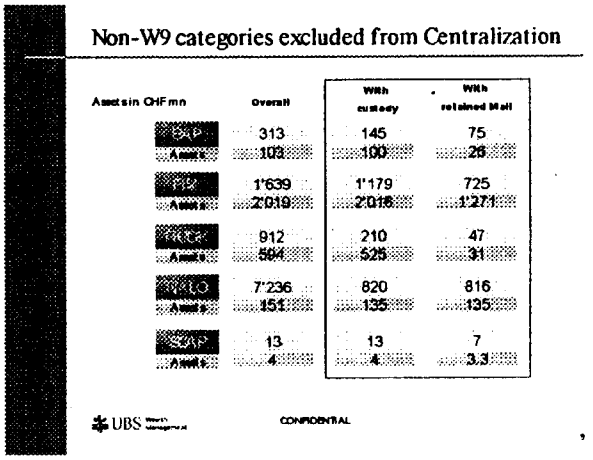


Certain categories of clients were excluded from the process as shown below. Largely these are specific client segments already handled in a distinct manner within WM&BB. BAP are employee accounts, FIM are Financial Intermediary relationships (see section 3.2 of this report), FK / GK are corporate clients (i.e. not individuals), NALO are dormant relationships and SCAP are clients designated as having a "sensitive country" connection under relevant WM&BB policy.:



The number of US Resident Non W-9 account relationships now handled by the Business Sector North Americas Desks in Switzerland is shown on the following slide (note that references in these slides to "clients" are actually to account relationships and in some cases, the same "client" may have more than one account relationship - however WM&BB systems do not allow to see the number of linked account relationships):

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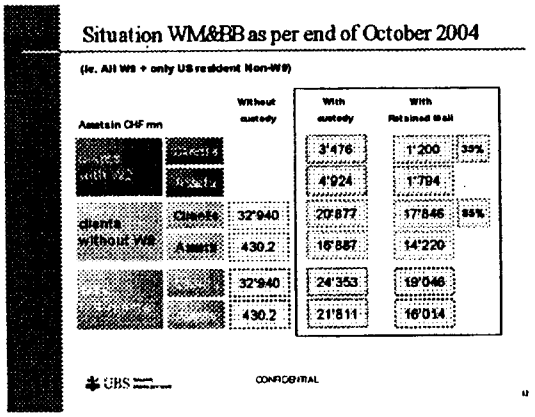
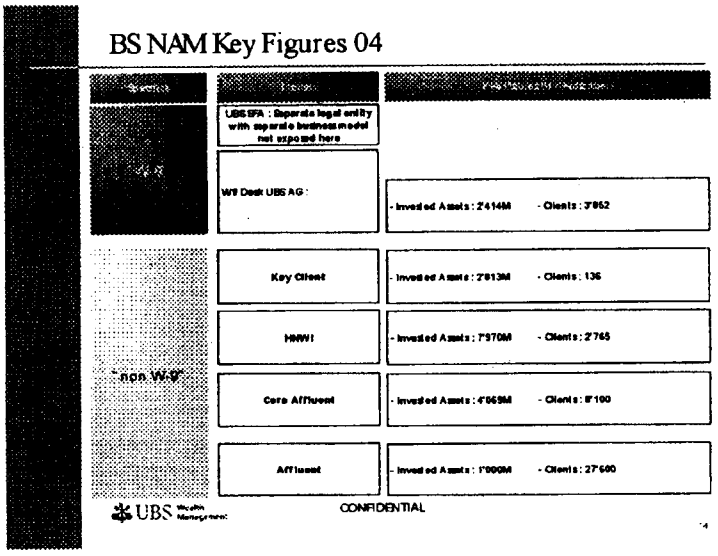


This breaks down as follows in terms of client segment:



As part of the centralization process, system restrictions are also in place to prevent any new accounts for US resident non-W9 clients being opened anywhere other than on the Business Sector North Americas Desks. Therefore going forward the centralization principles should be preserved.

3.1.2 Client Advisors Travelling to the US

In the last year, we are advised that 32 different Client Advisors from BS NAM have travelled to the US on business. On average, each Client Advisor visited the US for 30 days per year, seeing 4 clients per day. This means that approximately 3,800 clients are visited in the US per year by WM&BB Client Advisors based in Switzerland. Client visits are prioritised by asset size, and Affluent clients are not visited.

No printed matter is taken into the US and as will be apparent from the above all clients have cash accounts or make use of other banking products that justify the Client Advisor visiting them. Guidelines have been established in relation to the conduct of cross border business generally into the US and a copy of the present text is set out in Annex 1 to this report. Training materials (case studies etc.) have also been developed and delivered to relevant Client Advisors to emphasise what is and what is not permissible activity.

Below is the full presentation produced by BS NAM on their business.

Risk_NAM_1.ppt

3.2 US Resident Non-W9 Clients Dealing with WM&BB via Financial Intermediaries ("FIMs")

The following table shows numbers of account relationships with US Resident Non-W9 clients dealing with WM&BB through a Swiss-based Financial Intermediary. The numbers will be included in the information shown in 3.1 above but it is not open to us to isolate the relationships which appear in both groups.

		US Resident Non W9	Non US-Resident (US persons) non W9
Relationships With Custody Account	Account Numbers	826	2,686
	Assets (CHF)	1,534,486,100	5,792,927,159
Relationships Without Custody Account	Account numbers	64	30
	Assets (CHF)	1,741,476	1,008,448

In these cases, under standard UBS FIM business models, day to day (and in most cases all) client contact is via the FIM and not directly between UBS and the underlying client. Further details on the specific FIM relationships can be provided if required. As an aside, note that WM&BB also engages in business with 9 US-based FIMs that do, however exclusively bank customers who are not subject to U.S. tax (i.e. US Non-Resident Aliens). This segment does not create SEC or QI / deemed sales issues as we only work with US FIMs that have the appropriate SEC registrations.

3.3 UBS Trusts, Foundations and Other UBS Administered Structures Involving US Residents

The following table gives information on UBS administered Trusts, Foundations or other structures involving US residents. Again, the numbers may, to some extent be included in the information shown in 3.1 above but it is not open to us to isolate the relationships which appear in both groups. No such "double counting" will occur where the nature of the connection to the US resident is "indirect" - e.g. there is a beneficiary of a trust structure that is resident in the US.

UBS Trusts, Foundations and Other UBS Administered Structures where the Settlor is a US Resident	16
UBS Trusts, Foundations and Other UBS Administered Structures where one or more of the Beneficiaries are resident in US (Number)	315
UBS Trusts, Foundations and Other UBS Administered Structures where the Settlor is a US National (Number) INCLUDING TAX DOMICILE	15

αβ

UBS Trusts, Foundations and Other UBS Administered Structures where one or more of the Beneficiaries is a US national (Number) INCLUDING TAX DOMICILE	283
Total Sum of Total Assets in Structures (in CHF)	**4'132'826'806**

WM&BB Financial Planning policy is that generally we do not take on relationships with US resident settlors and a tax opinion is required in the context of any structure involving a US resident settlor or beneficiary. Accordingly, it can be seen that the number of structures in place is very small (total universe of FP structures is over 10,000 trusts and foundations under administration).

3.4 E-Banking Relationships with US Residents

The following table gives information on UBS E-banking relationships with US residents. Again, the numbers may, to some extent be included in the information shown in 3.1 above, but again it is not open to us to isolate the relationships which appear in both groups.

Client Account Numbers in Abacus with Domicile USA and E-Banking access	**2'605**
With Custody Acccount	975
Without Custody Account (i.e. cash only)	1'630
Total clients Assets (CHF)	**486'323'526**
Total Invested Assets (CHF)	**425'312'811**
Invested Assets in Depot Accounts (i.e. securities) (CHF)	333'059'377
Invested Assets in Cash Accounts (CHF)	92'253'434

E-banking for US resident customers is constantly monitored by Legal to ensure appropriate restrictions are put in place.

4. High-Level Risk Assessment For Various Client Segments

4.1 Risk Assessment

As can be seen from the information above, WM&BB's business relationships with US Resident Non-W9s are material both in number of clients and value of assets. However, various measures have been put in place to mitigate the risks attendant to the business.

4.1.1 The Risk

UBS AG, Switzerland, is not licensed to conduct regulated activities within the US. The primary risk facing WM&BB therefore in dealing with US Residents generally (whether or not W9s), is that we are alleged by the SEC to have carried on securities related activities within the US for US persons against SEC regulation. Specifically this is the risk that WM&BB has communicated within or into the US to US Persons regarding securities.

4.1.2 The Business

There is no prospecting or marketing for WM&BB's services (other than for our US operations and in the future for our Swiss-based SEC-registered investment adviser entity) performed on U.S. territory. Additionally, as a matter of policy, WM&BB does not accept account openings through correspondence for US resident clients.

US Resident Non-W9 Clients who hold only cash do not expose UBS AG, Switzerland to the risk of communicating into the US regarding securities and can therefore be discounted for the purposes of assessing risk in this respect. Of the remaining US Resident Non-W9 account relationships, over 20,000 hold at least some securities (although this figure maybe in fact be lower due to fiduciary deposits (i.e. cash deposits) being reported on investment accounts). In our view these are the higher risk clients.

4.1.3 Cross-Border Risk

Conducting business on a "cross border" basis (i.e. with non-resident clients in any jurisdiction) carries a certain amount of risk due to the inherent difficulties in reconciling often conflicting laws and regulations. Whilst WM&BB seeks to comply with the laws and regulations of the countries into which it carries out business (e.g. through restrictions on the types of products offered to clients and the way in which those products are offered), it is not possible to reduce the risks arising from such business to zero.

4.1.4 Additional Specific Steps To Mitigate Risk

There is no doubt that the US has its own specific risks due to the extent of the UBS Group exposure and the virulent regulatory atmosphere. Therefore, further steps have been taken over and above those generally taken for the cross border businesses of the WM&BB. As described in this report, these include the centralisation of all US Resident Non-W9 business into the BS NAM Desks in Zurich, Geneva and Lugano; ensuring that all such clients are retained mail clients (i.e. no systemised communication by the Bank into the US); providing further guidelines to Client Advisors regarding communications with such clients, and lower levels of Client Advisor visits to such clients when compared to other business areas.

Reeves Declaration
Exhibit 4

UBS Wealth Management

US Centralization Core figures and Business Model NAM

CONFIDENTIAL TREATMENT REQUESTED

U00006017

GOVERNMENT EXHIBIT 4

Regulation change and consequences on UBS's US business model

UBS Wealth Management

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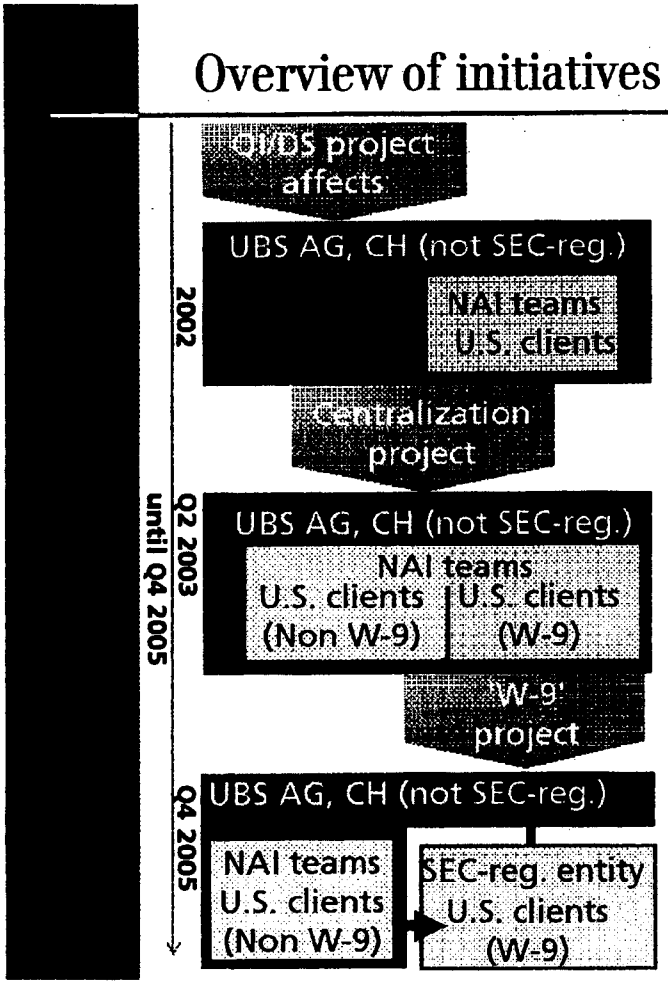
Overview of initiatives QI Deemed Sales / SEC



Measures (non-W9):
- QI: no U.S. securities
- DS: Retained mail; PM

Goal:
- Pass QI audit 03

Risks:
- Compliance Risk
- Liability Risk
- Reputation Risk

Worst consequence:
- Loss of QI status and of US banking license.
- Fines/penalties

Measures:
- Centralize U.S. clients to dedicated centers of expertise

Goal:
- Risk reduction through improved control environment

Risks:
- Limited service to W-9 clients
- Managed risks

Worst consequence:
- As above
- Further ad-hoc measures required

Measures (W-9):
- Move W-9 clients to SEC-reg. entity

Goal:
- SEC/QI compliance
- Retention / Sales

Risks mitigated:
- UBS AG and NewCo in compliance with QI/SEC
- Product/service compl. IRS tax reporting

Consequence:
- Active servicing of exist. and new clients
- reduced litigation risk

[redacted]

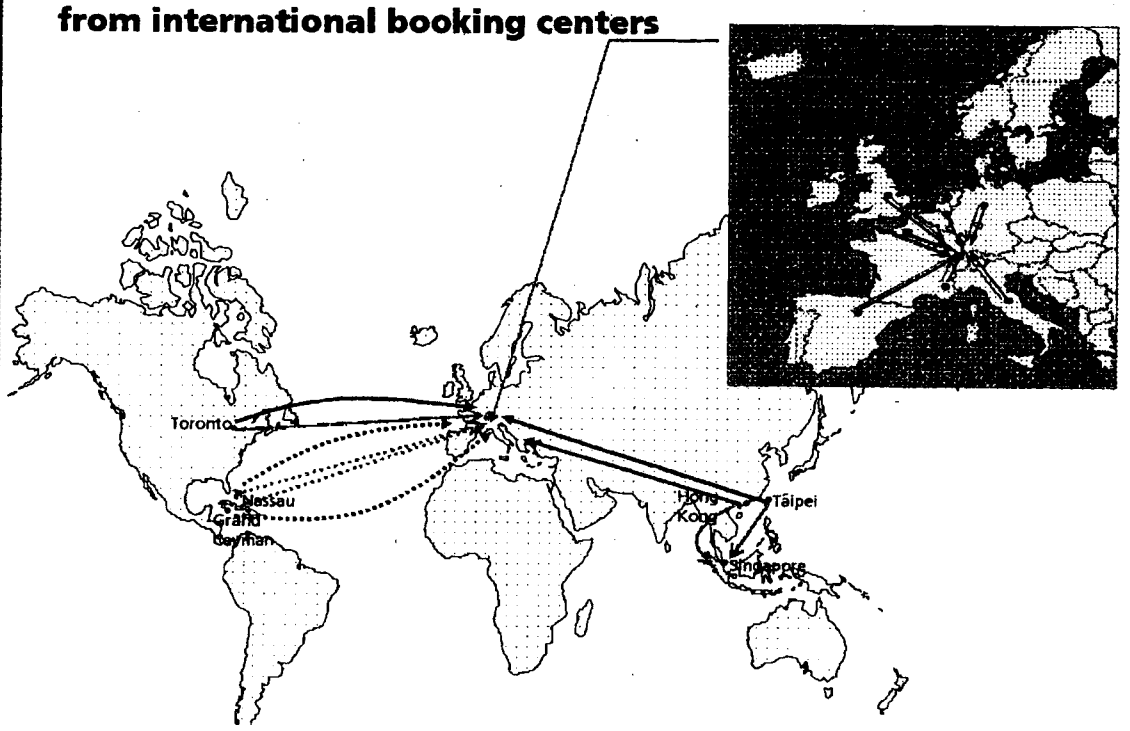
US Centralization

[redacted]

International locations

Overview of cross-border US Centralization

from international booking centers



nonW9 1'278 clients and 2'266 CHFm

UBS Wealth Management

W9 206 clients and 366 CHFm

5

Situation International locations 2003

		Non W9 resident in the U.S.	W9 resident in the U.S.	W9 non-resident in the U.S.	Status 2004
Bahamas	Clients	358	4		Centralized in ZH
	Assets	894M	2.1M		
Cayman	Clients	285	32		Centralized in ZH
	Assets	389M	43M		
Canada	Clients	12	82		On-shore (Q1'04)
	Assets	8.5M	104M		
Hong Kong	Clients	14	2		[redacted]
	Assets	11.8M	0.6M		
Singapore	Clients	28	7		
	Assets	23.3M	6.3M		
Germany*	Clients	0	27	61	On-shore (Q3'04)
	Assets	0	62.7M	68.3M	
Monaco	Clients	57	5	1	On-shore (Q1'04)
	Assets	79.7M	2.4M	1.2M	
Jersey	Clients	97	15		On-shore (Q1'05)
	Assets	270M	23.3M		
Luxembourg	Clients	117	2		[redacted]
	Assets	120M	1.2M		
London	Clients	36	36		On-shore (Q1'05)
	Assets	88.8M	64.4		
Overall	Clients	1004	274		
	Assets	1885.8M	380		

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* excluding 24 accounts from ML

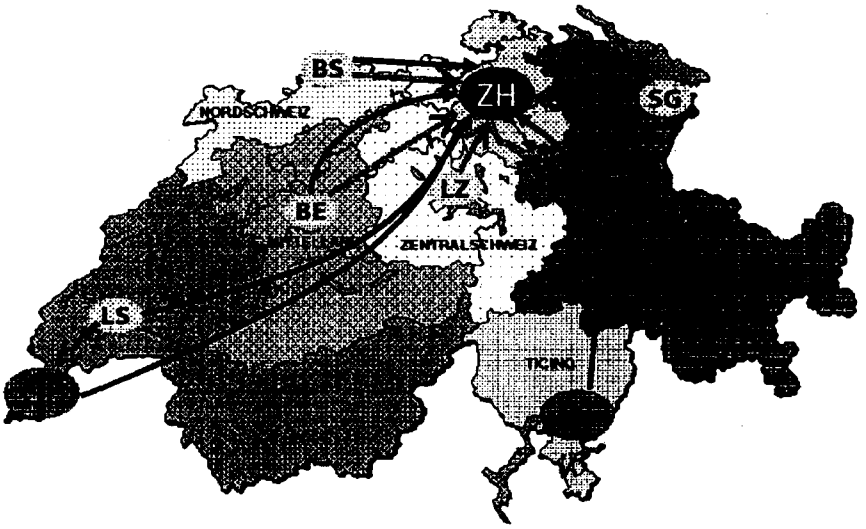
6

[redacted]

Booking Center Switzerland

Overview of BC Switzerland US Centralization

- **To comply with the US business model and to mitigate compliance, liability, and reputation risk, relations with US persons (ie. "W-9 and US domiciled nonW-9 clients") with custody account or investment fund account <u>were centralized</u> (Starting January 2003)**



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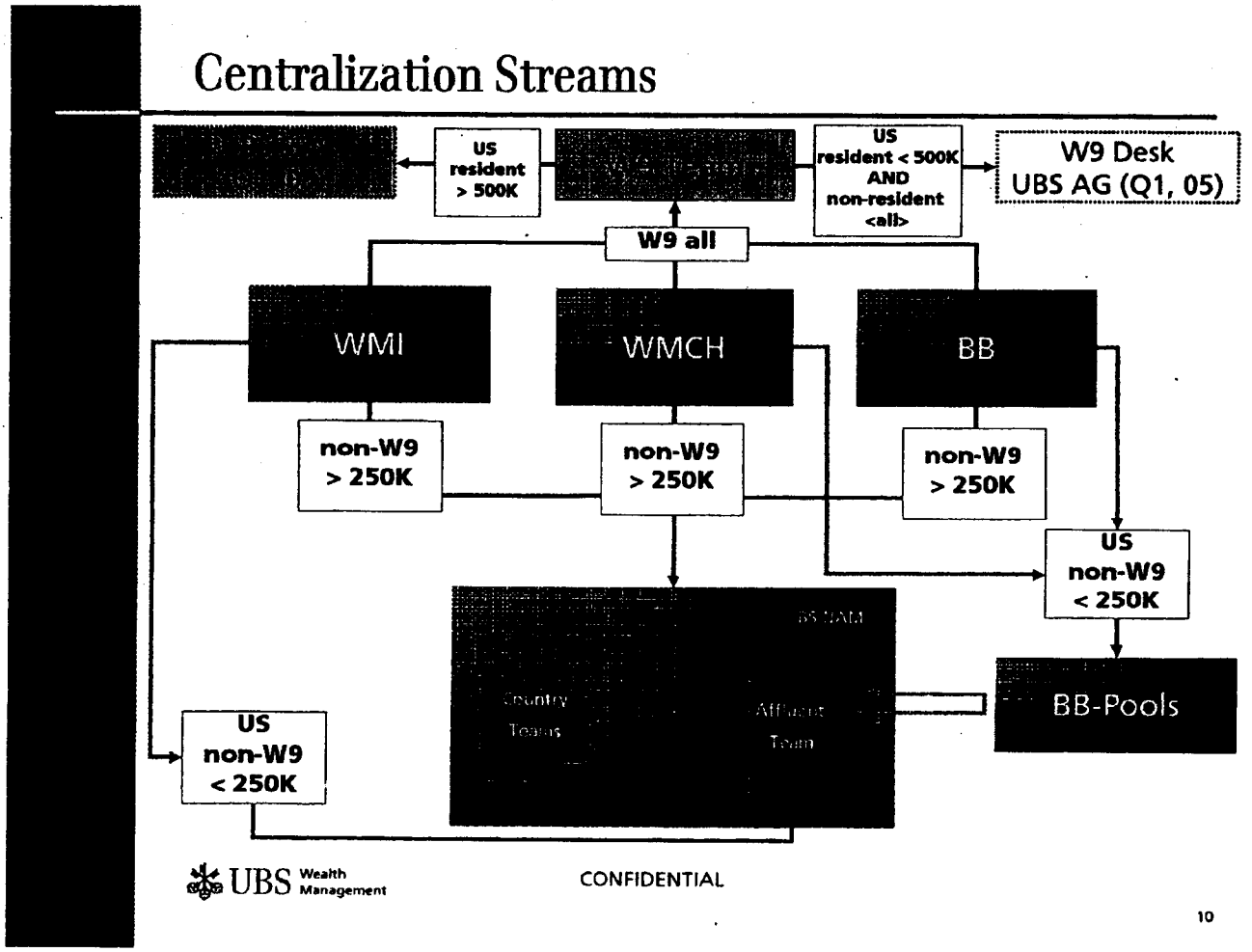
Non-W9 categories excluded from Centralization

Assets in CHF mn	Overall	With custody	With retained Mail
BAP	313	145	75
FIM	1'639	1'179	725
FK/GK	912	210	47
NALO	7'236	820	816
SCAP	13	13	7


Centralization Streams
US resident > 500K
US resident < 500K AND non-resident <all>
W9 Desk UBS AG (Q1, 05)
W9 all
WMI
WMCH
BB
non-W9 > 250K
non-W9 > 250K
non-W9 > 250K
US non-W9 < 250K
Country Teams
Affluent Team
BB-Pools
US non-W9 < 250K
UBS Wealth Management
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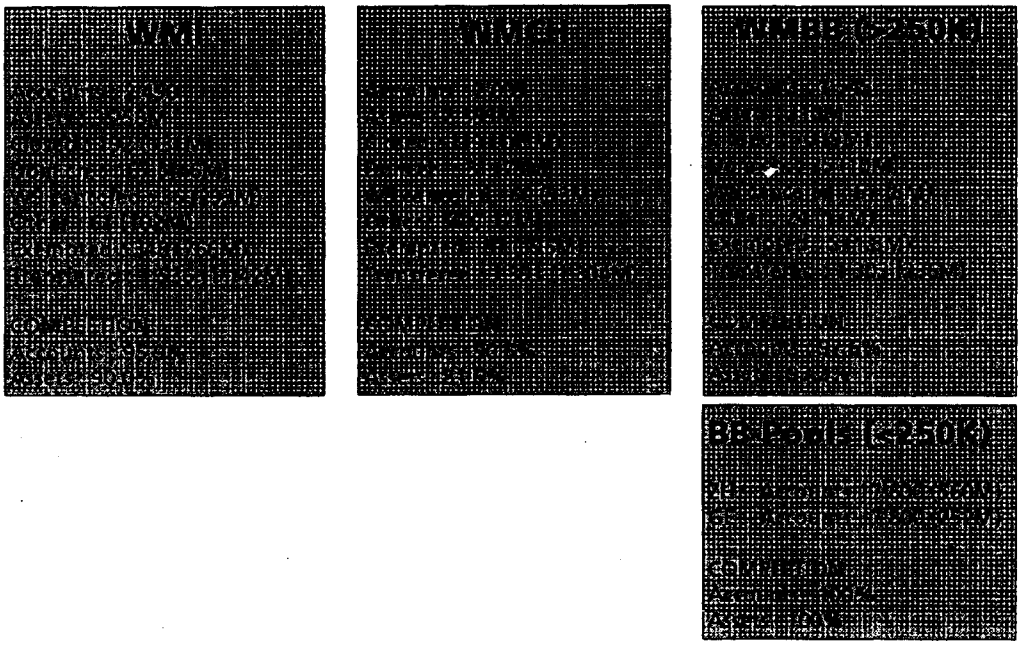
Centralization Status into NAM (September 04)



Situation WM&BB as per end of October 2004

(ie. All W9 + only US resident Non-W9)

Assets in CHF mn		Without custody	With custody	With Retained Mail	
clients with W9	Clients		3'476	1'200	35%
	Assets		4'924	1'794	
[illegible] clients	[illegible]	32'940	20'877	17'846	85%
	[illegible]	430.2	16'887	14'220	
Total U.S. clients	Clients	32'940	24'353	19'046	
	Assets	430.2	21'811	16'014	

UBS Wealth Management

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[redacted]

BS NAM

BS NAM Key Figures 04

Specifics	Models	Key figures 04 (exception only)
"W-9"	UBS SFA : Separate legal entity with separate business model not exposed here	
	W9 Desk UBS AG :	- Invested Assets : 2'414M - Clients : 3'052
[redacted]	Key Client	- Invested Assets : 2'813M - Clients : 136
	HNWI	- Invested Assets : 7'970M - Clients : 2'765
	Core Affluent	- Invested Assets : 4'069M - Clients : 8'100
	Affluent	- Invested Assets : 1'000M - Clients : 27'600

UBS Wealth Management

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BS NAM Key Figures (cash ratio)

UBS

Asset Book Report Wealth Management September 2004

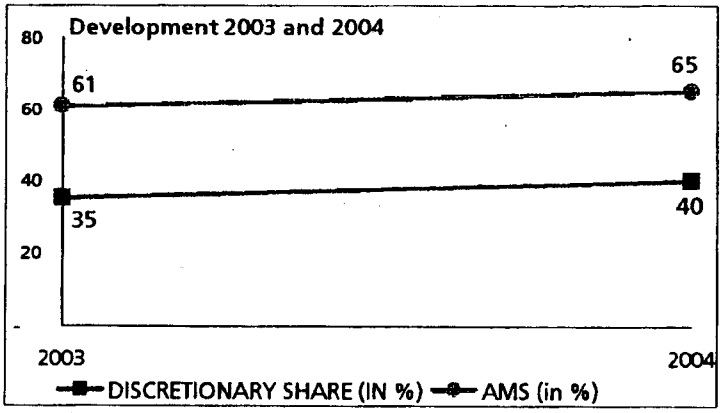
WM NORTH AMERICA NON W9 **REPORT IN CHF**

Cash, Fiduciaries and Money Market	3 479 271	22%
Bonds	3 020 867	19%
Equities	1 764 029	11%
UBS Money Market Funds	1 390 487	9%
UBS Bond Funds	1 389 265	9%
UBS Equity Funds	1 674 757	11%
UBS Strategy Funds	646 891	4%
3rd Party Investment Funds w. sales agreement	424 307	3%
Other Investment Funds	178 530	1%
Structured Products UBS and 3rd party w. sales agreement	854 505	5%
Structured Products 3rd party w/o sales agreement	46 014	0%
Alternative Investments UBS and 3rd party w. sales agreement	714 783	5%
Alternative Investments 3rd party w/o sales agreement	9 529	0%
Other Assets	186 468	1%
Total Invested Assets	**15 779 803**	**100%**
Additional (W9 Desk/Canada Dom and Int / London)	**11 328 317**	
Invested Assets (%)	**27'108'120**	

BS NAM Evolution 02-04

Development AMS and Discretionary Share Non W9 - 2003/2004

Non W9 Business	2003	2004
ACTIVELY MANAGED ASSETS (in CHFm)	9.0	10.3
AMS (IN %)	61%	65%
INVESTED ASSETS UNDER DISCRETIONARY (in CHFm)	5.1	6.2
DISCRETIONARY SHARE (IN %)	35%	40%



New Openings of US Non-W9 Relationships

Opening of US relationships in Switzerland : average of ~25 per month in 2004

Traveling (Non-W9): an average of 30 days per year [31CA's]

Overview implemented mesures since 2003

- **Implementation of UBS AG, SFA**
- **WMBB&CH wide US-Centralization with establishment of a WMI-unique Affluent segment (0-250K) as single point of entry for US clients on Swiss soil**
- **QI Deemed Sales intranet information portal**
- **NAM Center of Competence for QI Deemed Sales monitoring for WMBB&CH (since 09/04)**
- **NAM Center of Competence for functional information sharing to international locations still handling US relationships (Q1, 2005)**
- **SUBITOP restriction on opening US relationship outside of WMI BS NAM (Nov 04)**

Reeves Declaration
Exhibit 5

αβ

Master no.

Account no. _____

Rücksende-Adresse

← return to (please use return envelope)

Tax Form US Securities

Assets and Income
Declaration for US Taxable Persons[1]

account holder:[2] _____

_____

_____

_____

Nationality: _____

In accordance with the regulations applicable under US law relating to withholding tax, I declare, as the holder of the above-mentioned account, that I am liable to tax in the USA as a US person. I avail myself of the following right:

A) Waiver of right to invest in US securities

Option A1 (clients with investments in US securities)
I would like to avoid disclosure of my identity to the US Internal Revenue Service under the new tax regulations. To this end, I shall sell all my investments in US securities before 31 October 2000. If there should still be any investments in US securities in my account after this date, I authorize UBS AG to sell such investments at best market price at any time before the end of 2000. I take note that UBS AG shall not accept any further instructions for sale from me in November and December 2000 in order to avoid duplicate sales of the same investments. I expressly declare that I agree that my account shall be frozen for all new investments in US securities as from 1 November 2000.

_____ _____

Place/Date Signature[3]

[1] To be kept on file internally at the Bank only.
[2] Joint account holders need to fill out and sign separate forms.
[3] This form may only be signed in one place.

form code:

(for internal use only)

61393 E V0 please consider second page as well

GOVERNMENT EXHIBIT 5

αβ

Master no.

Account no. _____

account holder: _____

or

Barcode

For internal use only:

Signature verified/Signed in my presence:

OU-Ref.: Date:

αβ

Master no.

Account no. _____

account holder: _____

Option A2 (clients without investments in US securities)
I would like to avoid disclosure of my identity to the US Internal Revenue Service under the new tax regulations. To this end, I declare that I expressly agree that my account shall be frozen for all new investments in US securities as from 1 November 2000.

Place/Date

Signature*

or

B) Declaration to the US Internal Revenue Service

I would (also) like to be permitted to make investments in US securities in the future. UBS AG shall send me form W-9 for this purpose. I authorize UBS AG to forward form W-9 completed and signed by me to the US depository. I am aware that my identity will thereby be disclosed to the US Internal Revenue Service.

Place/Date

Signature*

* This form may only be signed in one place.

For internal use only:

Signature verified/Signed in my presence:

OU-Ref.: Date:

Reeves Declaration
Exhibit 6

From: Bovay, Christian
Sent: Friday, July 21, 2000 5:23 PM
To: 'Bertschi, Heinz'; 'Bovay, Christian'; 'Dubois, Christophe'; 'Favre, Julien'; 'Fontanella, Nicola'; 'Furrer, Stephane'; 'Gianferrari, Dania'; 'Gomez, Angel'; 'Heim, Stephan'; 'Huber, Hanno'; 'Keller, Anita'; 'Kohler, Sandra-ZA'; 'Kuhn, Yves'; 'Machalke, Christine'; 'Martinez, Helena'; 'Matherat, David'; 'Meyer, Yann'; 'Mowaffaghian, Mojgan'; 'Mundwiler, Stephane'; 'Piciet, Laurent'; 'Rambosson, Xavier'; 'Rizzello-Alemanno, Alma'; 'Sauser, Frederic'; 'Scarbolo, Huguette'; 'Winkelmann, Anita'
Subject: FW: IRS 2001/form US-person

-----Original Message-----
From: Schumacher, Hansruedi
Sent: vendredi, 14. juillet 2000 15:16
To: Wuethrich, Ralph z.r.w.u.o.; Winiger-Isler, Daniela z.g.w.i.n.; Zellweger, Rene; Zanelli, Sergio; Von-Arx, Anita; 'Bonalumi, Gianpaolo'; 'Bovay, Christian'; 'Grassi, Andreas'; 'Hug, Stefan'; 'Schmidiger, Benno'
Cc: Tagliente, Michael; Stankiewicz, Antoni z.h.s.s.t.; Grigioni, Carlo
Subject: IRS 2001/form US-person

dear all

UBS document 61393 form "declaration for US taxable persons"

has in all 3 waivers:

"I would like to avoid disclosure of my identity to the US IRS"

this sentence was refused by many clients, provoked angry outcries and we were beeing told, which if signed, fully incriminates a US person of criminal wrongdoing should this document fall into the wrong hands.

At todays Steering Committee IRS 2001 the decision was taken to cross this sentence from all 3 waivers and will be replaced by:
" I consent to the new tax regulations...."

Therefore the new forms will be changed. Existing ones where the clients crossed this sentence out, can be accepted.

regards
Hansruedi

GOVERNMENT EXHIBIT 6

Reeves Declaration
Exhibit 7

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 08-CR-60099-ZLOCH

UNITED STATES OF AMERICA
vs.
BRADLEY BIRKENFELD,
Defendant.
_____/

STATEMENT OF FACTS

The United States Attorneys Office for the Southern District of Florida, the United States Department of Justice, Tax Division, and the defendant, Bradley Birkenfeld (hereinafter referred to as the "defendant Birkenfeld") and his counsel agree that, had this case proceeded to trial, the United States would have proven the following facts beyond a reasonable doubt, and that the following facts are true and correct and are sufficient to support a plea of guilty:

The Qualified Intermediary Program

Beginning in 2000, the Internal Revenue Services ("IRS") sought to increase the collection of tax revenues without raising tax rates. In furtherance of this mission, the IRS established the Qualified Intermediary ("Q.I.") Program. Pursuant to the Q.I. Program, foreign banks voluntarily entered into Qualified Intermediary agreements with the IRS pursuant to which these foreign banks agreed to identify and document any customers who held U.S. investments, which were generally marketable securities and bonds, or received United States source income into their off-shore accounts. In accordance with IRS requirements, foreign banks agreed to have their customers fill out IRS Forms W-8BEN, which required the beneficial owner of a bank account to be identified on the form, or IRS Forms W-9, which required United States beneficial owners of bank accounts to be identified.

Foreign banks further agreed to issue IRS Forms 1099 to United States customers for United States source payments of dividends, interest, rents, royalties and other fixed or determinable income paid into the United States customers' off-shore bank accounts. Alternatively, if a client refused to be identified under the Q.I. Agreement, foreign banks agreed to withhold and pay over a twenty-eight percent withholding tax on U.S. source payments and then bar the client from holding U.S. investments. In addition, the sales proceeds, interest and

GOVERNMENT EXHIBIT 7

dividends earned on non-United States investments, if the purchase or sale of the investment was made as a result of contact (in person, via email, telephone or fax) with the U.S. client in the United States, were subject to the Form 1099 reporting requirements or twenty-eight percent withholding. These transactions are referred to under the Q.I. Program as "deemed sales."

In January 2001, a large Swiss bank ("Swiss Bank"), entered into a Q.I. agreement with the IRS. Swiss Bank owns and operates banks, investment banks and stock brokerage businesses throughout the world, and has locations in the United States, with branch locations in the Southern District of Florida. This agreement was a major departure from historical Swiss bank secrecy laws under which Swiss banks concealed bank information for United States clients from the IRS. At all relevant times to this indictment, the Swiss bank represented to the IRS that it had continued to honor this Qualified Intermediary agreement.

Defendant Birkenfeld's Employment

During the entire period from 1998 through 2006, defendant Birkenfeld was employed by various banks in Switzerland as a private banker primarily servicing United States clients. From 1998 through July 2001, defendant Birkenfeld was employed by Barclays Bank in Geneva, Switzerland. In 2001, Barclays Bank entered into a Q.I. agreement with the IRS. In order to comply with the terms of the Q.I. agreement, Barclays Bank decided to terminate its off-shore private banking business for United States clients that refused to complete an IRS Form W-9. Accounts owned by United States clients that refused to fill out IRS Forms W-9 were known in the off-shore banking business as "undeclared" accounts.

From 2001 through 2006, defendant Birkenfeld was employed as a director in the private banking division of a large Swiss bank ("Swiss Bank"), which owns and operates banks, investments banks, and stock brokerage businesses throughout the world, including the United States, with offices in the Southern District of Florida. A manager at the Swiss Bank assured defendant Birkenfeld that even though the Swiss Bank signed a Q.I. Agreement, the Swiss Bank was committed to continue to provide private banking services to United States clients who wished for their accounts to remain undeclared. Swiss Bank managers authorized and encouraged defendant Birkenfeld and other private bankers to travel to the United States to solicit new clients and conduct banking for existing United States clients. The Swiss Bank sponsored events in the United States where Swiss bankers met with U.S. clients, including Art Basel in Miami and the NASDAQ 100 tennis tournament in Miami. The Swiss Bank trained bankers traveling to the United States in techniques to avoid detection by United States law enforcement authorities, including training bankers to falsely state on customs forms that they were traveling into the United States for pleasure and not business. Defendant Birkenfeld, Swiss Bank managers and bankers knew that they were not licensed to provide banking services, offer investment advice or solicit the purchase or sale of securities through contact with clients in the United States.

The Tax Fraud Scheme

When the Swiss Bank notified its U.S. clients of the requirements of the Q.I. agreement, many of the Swiss Bank's wealthy U.S. clients refused to be identified, to have taxes withheld from the income earned on their offshore assets, or to sell their U.S. investments. To these clients, the Q.I. reporting requirements defeated the purpose of opening a Swiss bank account; to conceal their accounts from the IRS and to evade U.S. income taxes. These accounts were known at the Swiss Bank as the United States undeclared business. Rather than risk losing the approximately $20 billion of assets under management in the United States undeclared business, which earned the bank approximately $200 million per year in revenues, managers and bankers at the Swiss Bank, including defendant Birkenfeld, assisted these wealthy U.S. clients in concealing their ownership of the assets held offshore by assisting these clients in creating nominee and sham entities. These entities were usually set up in tax haven jurisdictions, including Switzerland, Panama, British Virgin Islands, Hong Kong and Liechtenstein. Defendant Birkenfeld, Swiss Bank managers and bankers and U.S. clients prepared false and misleading IRS Forms W-8BEN that claimed that the owners of the accounts were sham off-shore entities and failed to prepare and file IRS Forms W-9 that should have identified the owner of the account, the U.S. client.

Managers and bankers at the Swiss Bank, including defendant Birkenfeld, maintained relationships with Swiss and Liechtenstein businessmen, such as Mario Staggl, who would set up these nominee and sham entities for the Swiss Bank's U.S. clients and pose as owners or directors of these entities. By concealing the U.S. clients' ownership and control in the assets held offshore, defendant Birkenfeld, the Swiss Bank, its managers and bankers evaded the requirements of the Q.I. program, defrauded the IRS and evaded United States income taxes.

In order to further assist U.S. clients in concealing their Swiss bank accounts, defendant Birkenfeld, Mario Staggl, other private bankers and managers at the Swiss Bank and others advised U.S. clients to:

place cash and valuables in Swiss safety deposit boxes;

purchase jewels, artwork and luxury items using the funds in their Swiss bank account while overseas;

misrepresent the receipt of funds from the Swiss bank account in the United States as loans from the Swiss Bank;

destroy all off-shore banking records existing in the United States, and;

utilize Swiss bank credit cards that they claimed could not be discovered by United States authorities.

On one occasion, at the request of a U.S. client, defendant Birkenfeld purchased

diamonds using that U.S. client's Swiss bank account funds and smuggled the diamonds into the United States in a toothpaste tube. Defendant Birkenfeld and Mario Staggl accepted bundles of checks from U.S. clients and facilitated the deposit of those checks into accounts at the Swiss Bank, Liechtenstein and Danish banks.

The Billionaire U.S. Real Estate Developer

Defendant Birkenfeld's largest client was a billionaire real estate developer whose initials are I.O. (hereinafter identified as "I.O."). I.O. had residences in Southern California and in Broward County, within the Southern District of Florida. On several occasions, defendant Birkenfeld, Mario Staggl and Swiss Bank managers met with I.O. in Switzerland and in the United States. It was well-known at the Swiss Bank that I.O. was a U.S. citizen, that the income earned on his accounts was subject to Q.I. withholding and reporting requirements, however, during the period from 2001 through 2005, the Swiss Bank issued no Forms 1099 to I.O., nor did the Swiss Bank report any Form 1099 information to the IRS or withhold or pay over any taxes to the IRS.

From at least 2001 through the date of the Indictment, defendant Birkenfeld conspired with Mario Staggl, an owner and operator of a Liechtenstein trust company, I.O., additional private bankers and mangers employed by the Swiss Bank, and others to defraud the United States by assisting I.O. in evading income tax on the income earned on $200 million of assets hidden offshore in Switzerland and Liechtenstein. In order to circumvent the requirements of the Q. I. Agreement, the defendant and others conspired to conceal I.O.'s ownership and control of the $200 million of assets hidden offshore by creating and utilizing nominee and sham entities.

Defendant Birkenfeld, Mario Staggl, I.O, additional private bankers and managers employed by the Swiss Bank, and others committed numerous overt acts in Broward County in the Southern District of Florida, Central District of California, Switzerland, Liechtenstein, and elsewhere in furtherance of the conspiracy, including the following:

On or about June 21, 2001, I.O. caused to be sent completed bank account opening documents for an account at the Swiss branch of a large bank based in London to defendant Birkenfeld, including a Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding that falsely and fraudulently claimed that the beneficial owner of the newly opened account was a shell corporation located in the Bahamas.

On or about July 26, 2001, defendant Birkenfeld caused to be sent an email to I.O. and others that the large bank based in London was terminating North American clients, travel and resources, and that his new employer, the Swiss Bank, had a superior network, product range and

management, and had recently acquired a large United States securities brokerage house in order to enhance United States investment expertise.

On or about October 19, 2001, defendant Birkenfeld caused to be sent via facsimile to I.O. at a United States facsimile number Swiss bank account opening documents from the Swiss Bank, including a form entitled "Verification of the beneficial owner's identity." This form, executed by I.O., falsely and fraudulently stated that I.O. was not the beneficial owner, and that a nominee Bahamian corporation was beneficial owner of the account. The application further listed I.O. as a signatory to the account.

On or about December 4, 2001, Mario Staggle recommended to I.O. that in order to further conceal I.O.'s ownership of off-shore assets, in addition to setting up Liechtenstein trusts and Dutch holding companies, I.O. should set up an entity in the British Virgin Islands, Panama or Gibraltar that "would lead to another 'safety break' in a tax and anonymity aspect."

On or about December 19, 2001, Mario Staggl caused to be executed a "Letter of Intent," which stated that New Haven Trust Company Limited, trustee of The Landmark Settlement, intended to hold the trust property for the benefit of I.O., and, after his demise, for his children.

On or about March 13, 2002, defendant Birkenfeld caused to be sent a facsimile to I.O. at a United States facsimile number listing $15 million of bonds that an investment manager at the Swiss Bank had purchased for I.O.

On or about March 25, 2002, I.O. caused to be sent a facsimile to defendant Birkenfeld authorizing defendant Birkenfeld to issue five credit cards from the Swiss Bank to I.O. and others.

On or about April 16, 2002, I.O. caused to be sent a letter to defendant Birkenfeld authorizing the wire transfer of $80 million from one account at the Swiss Bank to another account at the Swiss Bank.

On or about April 23, 2002, Mario Staggl caused to be sent an email to I.O. in the United States with instructions for I.O. to transfer a portfolio, worth approximately $60 million, containing United States securities from a brokerage house in London to an account in the name of a Danish shell corporation at a Liechtenstein bank.

On or about April 25, 2002, an unindicted co-conspirator caused to be sent an email to I.O., with a copy to Mario Staggl, that recommended that in addition to the Liechtenstein trusts

and Danish holding companies, I.O. should set up United Kingdom companies to act as nominee shareholders. As stated in the email, "... the partners appear to be U.K. companies and Liechtenstein does not appear to be connected.... The role of the U.K. companies is simply to act as nominee shareholders."

On March 25, 2002, I.O. caused to be sent a fax authorizing defendant Birkenfeld to wire transfer $39 million from one account at the Swiss Bank to another account at the Swiss Bank.

On or about May 7, 2002, Mario Staggl caused to be sent a reply email advising I.O. not to put his name on any Liechtenstein accounts because doing so could "jeopardize the structure," and reminded I.O. that he had executed blank account signature cards that Mario Staggl could use.

On or about April 15, 2003, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2002 tax year, listing his address as Sanctuary Cove, Florida that fraudulently omitted income earned on off-shore assets.

On or about May 19, 2003, Mario Staggl caused to be sent an email to I.O., with a copy to defendant Birkenfeld, that stated that Mario Staggl's lawyers in Gibraltar told him "that everything is now in order to proceed with the application to transfer ownership to Gibraltar" of I.O.'s 147 foot yacht.

On or about March 24 and March 25, 2004, defendant Birkenfeld traveled to the Southern District of Florida to meet with I.O. and a banker from the Swiss Bank's New York branch in order to solicit I.O. to take out real estate loans with the Swiss Bank using his undeclared off-shore assets as collateral.

On or about April 15, 2004, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2003 tax year, listing his address as Lighthouse Point, Florida that fraudulently omitted income earned on off-shore assets.

On or about April 15, 2004, I.O. filed his United States individual income tax return, Form 1040, for the 2003 tax year, listing his address as Lighthouse Point, Florida that fraudulently omitted income earned on off-shore assets.

On or about April 15, 2005, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2004 tax year, listing an address in Lighthouse Point, Florida that failed to report the income earned on off-shore assets.

On or about June 12, 2005, defendant Birkenfeld and Mario Staggl met with I.O. at a Liechtenstein bank and advised him to transfer all of his assets held by the Swiss Bank to a Liechtenstein bank because Liechtenstein had better bank secrecy laws than Switzerland.

The tax loss associated with the conspiracy involving the evasion of income taxes of the approximate $200 million I.O. concealed offshore is $7,261,387 million, exclusive of penalties and interest.

Respectfully submitted,

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Date: 6/10/08 By: _____
KEVIN DOWNING
SENIOR TRIAL ATTORNEY
MICHAEL P. BEN'ARY
TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE
TAX DIVISION

Date: 6/13/08 By: _____
JEFFREY A. NEIMAN
ASSISTANT UNITED STATES ATTORNEY

Date: 6/10/08 By: _____
DANNY ONORATO
PETER RABEN
ATTORNEYS FOR DEFENDANT

Date: 10/06/08 By: _____
BRADLEY BIRKENFELD
DEFENDANT

Reeves Declaration
Exhibit 8

ab

UBS AG
Private Banking
Postfach
CH-8098 Zürich
Tel. +41-234-111

Financial Planning & Wealth Management

Jonathan Bourne
ET21 AT2V 8C1
Talackerstrasse 21
Tel. +41-234-2264
Fax +41-234-4470
jonathan.bourne@ubs.com

www.ubs.com

Memorandum

4 July 2000

DRAFT

to Business Committee, Private Banking

cc Walter von Wyl, John Cusack, Hansruedi Schumacher

from René Sonneveld and Jonathan Bourne, Financial Planning & Wealth Management

subject **IRS 2001**
FPWM policy for dealing with US persons under the QI agreement

Gentlemen,

The Bank's Qualified Intermediary Agreement with the IRS forces US persons who invest in US securities to disclose themselves to the IRS by completing an IRS Form W-9.

This applies in particular to:-

1. US persons with accounts held directly;
2. The settlors of grantor trusts, as defined by US rules;
3. The beneficiaries of simple trusts, as defined by US rules;
4. The economic founders of foundations, treated as grantor trusts;
5. The beneficiaries of foundations, treated as simple trusts.
6. In the case of items 2-5 above, we will have to disclose non-US persons who are settlors or beneficiaries to the IRS, if the structures hold US securities.

Questionnaires will be sent to legal entities including trusts, foundations and underlying companies by the end of July 2000 to determine their status. The QI Project team (of which FPWM is not a part) is working on this questionnaire at the moment.

Certain other structures are not caught by these rules, and there is no need for the settlor/beneficiaries/individual owner to disclose themselves to the IRS, even though they are US persons. These structures are:-

- Offshore companies, with limited liability, which have not elected to be "flow-through" entities;
- Grantor, simple and complex trusts with underlying companies, holding the assets;
- Complex trusts;
- Foundations treated as complex trusts;
- Certain insurance products in which a non-US insurance company holds the assets underlying a deferred variable annuity policy or a life insurance policy.

We recommend the following FPWM policies for US persons in categories 1-6 above.

1. Change of investments

file

GOVERNMENT EXHIBIT 8

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Where the client agrees, direct investments in US securities should be sold and replaced with investments on the approved list shown on the Private Web. These include UBS investment funds and certain derivative products.

II. Change of structure

Where the client/settlor/beneficiaries wish to retain direct investments in US securities, this can be achieved by placing an underlying company beneath the trust/foundation.

This is a relatively minor structural change, which could be made without upsetting the IRS, if done prior to 2001.

The conversion of a simple or grantor trust/foundation into a complex trust, by changing the trust/foundation deeds is not recommended by Baker & McKenzie, as the advantages of the original structure can be destroyed.

III. No more "flow-through" entities as a matter of policy

Baker & McKenzie have recommended that we give active consideration to setting a new policy, by which the bank would not accept "flow-through" entities as account holders. By "flow-through" entities we mean simple and grantor trusts/foundations and other entities, eg partnerships, where IRS rules look through the structure to the ultimate beneficial owners. Such a policy would be justified on the grounds of administrative convenience and avoiding costly mistakes, where a structure is mis-analysed under all the complex rules, rather than tax avoidance. Baker & McKenzie would have the capacity, for example, to place BVIs under each of our foundations.

IV. Purchase of alternative structures

In the case where the US person holds his US investments directly, we have been advised by Baker & McKenzie that we cannot recommend products (such as the use of offshore companies, annuity or insurance products) to our clients as an "alternative" to filing a Form W-9. This could be viewed as actively helping our clients to evade US tax, which is a U.S. criminal offence. Further, such recommendations could infringe upon our Qualified Intermediary status, if, on audit in 2003, it is determined that we have systematically helped US person to avoid the QI rules.

What we can do is suggest that clients seek external professional advice and offer them a choice of approved service providers, if they request it. With this approach it seems clear that we would not be able to share fees with, for example, an insurance provider.

Conclusion

We would recommend that direct US investments are replaced by indirect investments as far as possible.

Where the client in relation to a trust or foundation with no underlying company is against this, then an underlying company should be placed under the trust/foundation with the purpose of holding the US investments.

Consideration should be given to requiring all flow-through entities to have an underlying company as a matter of policy.

Where clients want an external solution, we should only offer them a choice of approved service providers offering insurance products and offshore companies.

Yours truly,

UBS AG

Jonathan Bourne René Sonneveld

Enc. Foreign Trusts & Liechtenstein Foundations: Impact of new QI rules

Reeves Declaration
Exhibit 9

Subject:	Structures/vehicles for U.S./Canadian Clients
Location:	Palm Beach
Start:	Tue 8/17/2004 8:00 AM
End:	Tue 8/17/2004 12:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Required Attendees:	Maetzler, Claudia; Perron, Daniel; Bourne, Jonathan; La-Barre, Rene; Guignard, Michel; Marti, Georg

Dear colleagues,

You will meet at Bärengasse 16, 2nd floor, room Palm Beach:
8.00-9.00, Quadris
9.00-10.00, Sinco Treuhand AG
10.15.-11.15, Rickenbach & Partner
11.15-12.15, Panazur

Please see below the e-mail which was sent to the different service providers:

Dear ....,

We would like to conduct a review of the structures/vehicles that you offer to/have set up for our U.S. and Canadian clients. We invite you to make a short presentation on the structures/vehicles that you recommend to U.S. and Canadian clients who do not appear to declare income/capital gains to their respective tax authorities. Our meeting should be concluded in one hour. We kindly ask you to cover both types "simple" and "well managed" structures/vehicles. In your presentation please focus on the following issues for each structure/vehicle:

a) Filing requirements (e.g. accounts, tax returns)

b) Disclosure of BO info (e.g. locally under KYC rules or through tax information exchange)

c) Tax implications (e.g. inheritance tax or income tax in the relevant location)

d) Procedures for management (e.g. to ensure the company is well-managed)

e) QI status (e.g. whether the structure is flow-through or non-flow through)

f) Other issues that the provider believes are relevant to a complete risk assessment

We look forward to meeting with you soon.

Best regards,

Michel Guignard
Daniel Perron
Georg Marti
Rene La Barre
Jonathan Bourne

GOVERNMENT EXHIBIT 9

Reeves Declaration
Exhibit 10

UBS

Qualified Intermediary System: US withholding tax on dividends and interest income from US securities

1. Background

The USA levies a withholding tax of 30% on dividends and interest paid on US securities to foreign investors. Investors from countries with which the USA has concluded a double taxation agreement (DBA) can request full or partial relief from this tax. Relief of 15% is normally granted on *dividends*, which means investors are credited with a net 85% of the income.

By contrast, according to domestic US tax law, *interest payable* to foreign investors on the most common US (domestic) bonds issued after 1984 is already exempt from the withholding tax ("portfolio interest exemption rules"), subject to confirmation of the status and identity of the non-US investor. Relief from the withholding tax payable on interest income (usually 0%) as provided for in the DBAs is therefore only of secondary importance.

Interest income on those bonds issued by US borrowers that are most commonly traded on the Euromarket are already exempt from any withholding tax – provided that the bonds concerned are bearer securities – on the basis of the issuing process alone, i.e. without the need for any further proof and without any duty of disclosure.

2. Relief procedure since 2001 ("Qualified Intermediary System")

The Qualified Intermediary System, which came into effect in early 2001, allows foreign banks to obtain relief from withholding tax for their non-US clients (those not liable to US taxation) in accordance with the relevant DTA, directly and without having to file applications to reclaim the tax. Essentially, as long as its documentation on the clients concerned fulfils the accepted client identification rules, the foreign bank may credit these clients with interest and dividends as befits their tax status, having applied the correct withholding tax rate as defined in the relevant DTA, or having effected the relief in line with domestic US tax law. The simple address rule previously in force has been replaced by a "modified" address rule with additional documentation requirements. This makes it much easier than it was before for clients to buy US domestic interest-bearing paper (corporate bonds and government paper).

3. Implications for clients

It is, however, a necessary part of the procedure for the non-US bank concerned to acquire the status of 'Qualified Intermediary' (QI). UBS AG has this status and has entered into a contractual agreement with the US tax authority (the IRS) known as the "QI Agreement". It goes without saying that as well as the advantages associated with the continued or even extended ability to directly apply relief to US withholding tax, QI status also entails certain obligations.

3.1. Natural persons

Firstly, a QI has to ensure that *US Persons*, i.e. natural persons liable in full for taxes in the US (defined as US citizens and Greencard holders irrespective of their actual place of residence and persons resident in the USA for more than 183 days during the current year) either declare themselves to the US tax authorities (US form W-9, no deduction of withholding tax but reporting procedure 1099 must be followed) or are no longer permitted to invest in US securities.

In the case of persons who are *not* US persons as defined by US tax law, as long as statutory client identification procedures would appear to confirm entitlement pursuant to the DTA concluded with the USA, the QI can apply withholding tax relief on dividends and interest as conferred by the DTA, and/or directly apply the full relief to interest income as permitted by the US "portfolio interest exemption rules". In practice, most Swiss banks also seek internal confirmation of whether the client wishes to take advantage of the DTA relief before applying it. For persons resident in countries which do not have a DTA with the USA, the full withholding tax of 30% must still be deducted

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from dividend payments. However, such investors do benefit from full relief on "portfolio interest exempt" earnings.
The main advantage of the QI system and the effect intended by the USA, is to enable investments to receive correct withholding tax treatment in the USA without the need to disclose any information on foreign investors to the US custodian bank, the US tax authorities or any other tax authority.
The client's current tax status is documented by the normal client identification procedures and also by means of the internal forms used by UBS AG.

3.2. Legal entities

The above rules also apply to bank clients that are legal entities.

Legal entities which are domiciled in the USA or which are incorporated in the USA qualify as US persons. These entities are not subject to the same restrictions and reporting procedures that apply to natural persons, but in order to avoid misunderstandings, the QI is also entitled to ask these persons to submit US form W-9.

Foreign legal entities that are not US persons, such as Swiss incorporated companies, GmbH's (companies with limited liability), cooperatives, foundations, associations autonomous public sector bodies and similar foreign legal forms benefit in the same way as natural persons from full relief on earnings from qualifying bonds pursuant to the "portfolio interest exemption rules"; they also benefit from a reduced withholding rate on dividends and interest income, provided that they are covered by a DTA concluded with the USA. As with natural persons, the general condition here is of course that the investor concerned is the beneficial owner of the earnings in question.

For legal entities, the QI Agreement additionally requires that before any relief under a DTA can be applied, the legal entity must expressly confirm to the QI that it fulfils the conditions for DTA entitlement pursuant to the applicable provisions in respect of the "Limitation on Benefits" (no such express confirmation is required for natural persons). These highly complex provisions are included in all the more recent DTA's concluded with the USA, including those concluded with the Netherlands, Germany, France and, nota bene, Switzerland. The DTA's in question, the withholding tax rates and the relevant "Limitation on Benefits" clauses can be called up via a link on the homepage of the Swiss Bankers Association (www.swissbanking.org).

In order to ensure compliance with the clauses of the QI Agreement, the affirmation of non-US person status obtained by UBS AG from the legal entity by way of an internal form includes express confirmation by the legal entity that it has taken note of the provisions of the "Limitation on Benefits" and that it fulfils the conditions for recourse to the DTA. In cases of uncertainty or where there are outstanding questions in respect of these conditions, we recommend consulting a professional tax advisor.

If there is no express confirmation that the "Limitation on Benefits" clauses have been fulfilled, the QI regulations dictate that UBS AG cannot apply the relief from withholding tax on dividends under a DTA, even if the legal entity is domiciled in a country that has a DTA with the USA. Instead, dividends (and DTA interest income) are taxed at the full US withholding rate of 30%. Of course the same applies if there is no DTA between the country of domicile and the USA.

This does not affect the grant of full relief in respect of interest income from qualifying (US domestic) bonds under the "portfolio interest exemption rules", which does not depend on the existence of a DTA or the fulfilment of any DTA criteria.

3.3. Special conditions for persons resident /domiciled in Switzerland (additional tax deduction USA)

Because the Swiss federal authorities have decided that the "additional tax deduction USA" will continue to apply to persons domiciled or resident in Switzerland, the QI must continue to levy a tax payment totaling 30% in respect of dividends, on all natural persons and legal entities resident or domiciled in Switzerland (i.e. the original 15% withholding tax due in the USA plus the 15% "additional tax deduction USA" in Switzerland). Taxpayers may continue to claim back the

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"additional tax deduction USA" from the relevant Swiss tax authority as part of the normal tax declaration process. It may be possible under the DTA to claim a flat-rate tax credit in Switzerland for the non-reclaimable original 15% withholding tax due in the USA.

If the Swiss legal entity does not supply the confirmation as detailed under 3.2 that it fulfils the conditions set out in the "Limitation on Benefits" clause, the full original US withholding tax deduction of 30% applies. The "additional tax deduction USA" does not apply in such a case and essentially there is no possibility of reclaiming the tax in Switzerland. The full deduction should be seen as a definitive charge.

According to the decision taken by the Swiss federal authorities, the organizational forms that are exempt from tax pursuant to Art. 56 of Switzerland's law on direct federal taxes are treated as special cases. The "additional tax deduction USA" does not apply to these organizational forms, i.e. they are only taxed at the original US withholding rate of 15%. In order to qualify for this special treatment, however, the required form must be submitted to UBS AG in good time.

The comments on the "additional tax deduction USA" do not apply to interest earnings that benefit from full tax relief under the US "portfolio interest exemption rules".

3.4. Not applicable to organizational forms that are not legal entities

The above comments apply exclusively to companies and organizations that qualify as legal entities under national law. They do not apply to companies or organizational forms that have no legal personality, such as unincorporated firms (collective companies, limited partnerships, limited partnership corporations, general partnerships, unlimited companies, etc.). These are subject to other regulations and, under US tax law, some of them may qualify as transparent intermediaries with a possible duty of disclosure. They also have to be treated differently in the matter of recourse to DTA benefits.

3.5. Special investment vehicles (domiciliary companies such as offshore companies, foundations, trusts, etc.)

(Non-US) organizational forms used as investment vehicles that could be classed as domiciliary companies as defined in the Swiss code of due diligence are subject to a special regulation. Such organizations will either be an offshore company or one of the wide range of foundations and trusts that are used in asset management business. While the main issue concerning domiciliary companies is whether they really are companies and also whether they really are the beneficial owner of the assets as defined by US tax law (facts which can be confirmed using the appropriate forms), the basic problem with trusts and foundations is that US tax law tends to regard them as transparent intermediaries with corresponding disclosure obligations.
Whereas there was originally a solution to this, whereby foreign investors could avoid having to disclose information for the sake of it, changes introduced in the relevant US regulations in fall 2003 largely made the continuation of this solution unworkable. Given this change in circumstances, if there is no desire to disclose the identities of either the bank's contracting partner or the beneficial owner to the US tax authorities, the possible alternatives are for US securities to be excluded from the portfolio, for the beneficial owner to hold them directly, or for a structure to be put in place between the foundation/trust and the bank which itself serves as an independent, non-transparent beneficial owner (e.g. a legal entity/corporation/company) and submits documentation to the QI to this effect.

4. Relevant US securities

The new regulations apply to securities issued by US companies and borrowers. In general terms, the securities involved are equities (of whatever form) of US companies traded on US or foreign stock markets or bonds (straights, zeros, etc.) from US issuers (companies, local authorities, government agencies, etc.) destined for the US domestic market. The equity certificates issued by these companies for trading outside the USA (depositary receipts, Swiss certificates, etc.) are subject to the QI regulations in the same way as are the underlying securities. Clearly, units in US

UBS

investment funds (regulated investment companies, mutual funds, etc.) also qualify as US securities, although units in foreign (non-US) investment funds do not, even if the funds themselves invest in US paper.

Different rules apply to Eurobonds that are issued by US borrowers specifically for foreign markets and/or foreign investors, provided that these qualify as bearer paper under the "portfolio interest exemption rules". Such bonds are not affected by the changes and are exempt from the QI procedure. However they are already subject to certain sales restrictions, at least in the primary market, that prevent or make difficult any sale to US persons.

Reeves Declaration
Exhibit 11

αβ Executive Board Wealth Management & Business Banking

Sponsor:	Anton Stadelmann	**Date:** 6 July 2004	
Presenter:	Aleidus Bosman P&S Financial Planning, Bernhard Buchs CFO Risk & Compliance		

Subject: QI Solutions for Simple and Grantor Trusts
"Swiss Solution" - Alternative to be applied / Thresholds

1. Purpose of the paper

To seek approval for the implementation of the proposed measures and thresholds with regard to alternative solutions for simple and grantor trusts previously documented under the QI "Swiss Solution".

2. Executive Summary

Background

The IRS has issued new rules (IRS Notice 2003-64) regarding the documentation of trusts and foundations previously documented under the "Swiss Solution". Simple and grantor trusts will have to provide new documentation including a US Tax Identification Number ("TIN"). In this regard the beneficial owners will have to be disclosed to the IRS. Whilst the Swiss Bankers Association has initiated discussions with the IRS on this subject, it remains unclear whether the TIN requirement will be removed. All Client Advisors have, therefore, been requested to contact their affected clients (grantors/BOs) before 31 July 2004 so that they could choose one of the alternative solutions: (i) the sale of US securities and the respective waiver not to invest in US securities going forward, (ii) the set-up of an underlying company or (iii) the grantor becoming the direct holder for the US securities. All structures documented under Swiss Solutions but not invested in US securities have been blocked for US investments since May 2004.

The Risk & Compliance Steering Committee proposes:

For any structure documented under the Swiss Solution holding US assets (2'500 clients), which could not be contacted by 31 July 2004, we propose the following:

- UBS will establish an underlying company in the Bahamas for UBS internal structures holding **US securities above a threshold of CHF 500'000.** This will result in ca. 550 underlying companies to be set up.
- UBS will establish an underlying company in the Bahamas for the remaining UBS internal structures where the **total invested assets are above a threshold of CHF 10m** and the total value of US securities above CHF10'000. This will result in an additional 100 underlying companies to be set up.
- It is assumed that 20% of those clients who could be contacted will wish to set up underlying companies rather than sign a waiver not to invest in US securities. This will result in an estimated 250 underlying companies.
- The fee for the underlying company (one off CHF 1'700; yearly CHF 2'100) will be charged to the client.
- All clients with external structures or internal structures below the above thresholds who cannot be contacted will be subject to forced sales.
- For the set up of 900 underlying companies before 31 October 2004, Financial Planning requests an additional 15 FTE temporarily for 3 months (8 in Switzerland and 7 in the Bahamas). The resulting one-off total direct costs are CHF 0.6mio vis-à-vis generated net revenues of CHF 1.0mio.
- For the ongoing administration of 900 additional underlying companies, Financial Planning

Please note that this cover sheet and additional documentation to be distributed to the EB members have to be send to the WM&BB Management Office no later than Thursday evening before the respective EB meeting. In case of questions please contact Cassienne Fierz (1923 - 4 25 21) or Flurin Durisch (1923 - 4 88 83).

GOVERNMENT EXHIBIT 11

requests an additional 5 FTE (3 in Switzerland and 2 in the Bahamas).
The total direct costs for these FTE are CHF 0.9mio vis-à-vis a yearly net revenue of CHF 1.3mio .

Reeves Declaration Exhibit 12

From: Bovay, Christian
Sent: Wednesday, May 02, 2001 12:04 PM
To: 'Bertschi, Heinz'; 'Bovay, Christian'; 'Duboll, Christophe'; 'Furrer, Stephane'; 'Gianferrari, Denis'; 'Gomez, Angel'; 'Helm, Stephan'; 'Huber, Hanno'; 'Keller, Anita'; 'Kuhn, Yves'; 'Machalke, Christine'; 'Matherat, David'; 'Mundwiler, Stephane'; 'Pictet, Laurent'; 'Rizzello-Alemanno, Alma'
Subject: FW: QI et clients potentiels

Importance: High

FYI
Ceci nous confirme qu'il faut agir avec grande prudence avec les potentiels.
Christian

-----Original Message-----
From: Schumacher, Hansruedi
Sent: mercredi, 2. mai 2001 10:56
To: 'Bonalumi, Gianpaolo'; 'Bovay, Christian'; 'Grassi, Andreas'; 'Guldimann, Beat'; 'Hug, Stefan'; 'Luetolf, Dieter'; 'Schmidiger, Benno'
Subject: FW:

to all CA's -> pls keep it confidential

I have my slight doubts about this report but to be on the safe side I instruct all client advisors to be prudent in first time clients re QI, possible structures etc.

mentioning of solutions only to clients which we already know since some time

thanks, regards
Hansruedi

-----Original Message-----
From: Rossetti, Gian z.h.r.o.p.
Sent: Mittwoch, 2. Mai 2001 10:24
To: Gagnebin, Georges; Adjadj, Michel; Capitelli, Rene z.h.c.p.e.; Decurtins, Arthur z.h.d.c.n.; Liechti, Martin; Rohner, Marcel; Sipes, Richard; Weil, Raoul; Bauer, Hans-Peter; Schumacher, Hansruedi; Von-Wyl, Walter
Subject: FW:

FYI

Gian Pietro Rossetti

-----Original Message-----
From: Odermatt, Franz z.h.o.d.r.
Sent: Freitag, 27. April 2001 16:47
To: Rossetti, Gian z.h.r.o.p.
Subject:

Sehr geehrter Herr Rossetti

Eine vertrauliche Info für Sie (falls sie stimmt):

1

GOVERNMENT EXHIBIT 12

Ich habe heute an einer Tagung u.a. den QI-Spezialisten von Baker & McKenzie getroffen. Marnin Michaels ist Amerikaner, operiert hier aus Zürich heraus und hilft Banken, den QI-Setup aufzusetzen.

Gemäss Michaels hat die IRS vor rund drei Wochen hier in der Schweiz eine Undercover-Aktion mit dem Ziel gestartet, die QI-Prozedere der Schweizbanken im Falls von US-Staatsbürger in einem Feldversuch 1 : 1 zu testen. Dabei ging es offenbar insbesondere auch um solche Problemstellungen, ob der Berater auch nichtdeklarierte Fonds von Amerikanern entgegennimmt, oder er Ratschläge zur Umgehung der QI-Problematik erteilt und wie er generell auf QI-Probleme reagiert.

Die IRS-Leute agierten hier in der Schweiz offenbar mit dem Einverständnis der Schweizer Steuerbehörden!

Michaels ist eher per Zufall auf diesen Sachverhalt gestossen, weil auch er von einem der Agenten über die QI-Situation in der Schweiz befragt wurde und er sich dann über die sehr detaillierten und gezielten Fragen gewundert hat. Nach seinem eigenen Bekunden hat er sich dann bei Kollegen in der IRS erkundigt, ob IRS-Leute hier "under cover" tätig seien, was ihm informell (und off the record) bestätigt wurde.

MfG

Franz Odermatt

FYI
Ceci nous confirme qu'il faut agir avec grande prudence avec les potentiels.

Christian

----Original Message----
From: Schumacher, Hansruedi
Sent: mercredi, 2 May 2001 10:56
Ton: "Bonalumi, Gianpaolo"; "Bovay, Christian"; "Grassi, Andreas"; "Guldimann, Beat"; "Hug, Stefan"; "Luetolf, Dieter"; "Schmidiger, Benno" Subject: L.G.:

ton all CA's - > pls keep it confidential

I have my slight doubts about this report but tons of fuel element on the safe side I instruct all client advisers tons of fuel element prudent in roofridge time clients RH QI, possible structures etc.

mentioning OF solutions only tons clients which incoming goods already know since some time

thanks, regards
Hansruedi

----Original Message----
From: Rossetti, Gian z.h.r.o.p.
Sent: Wednesday, 2 May 2001 10:24
Ton: Gagnebin, Georges; Adjadj, Michel; Capitelli, Rene z.h.c.p.e.; Decurtins, Arthur z.h.d.c.n.; Liechti, Martin; Rohner, Marcel; Sipes, Richard; Because, Raoul; Farmer, Hans Peter; Schumacher, Hansruedi; Of Wyl, walter
Subject: L.G.:

FYI

Gian Pietro Rossetti

----Original Message----
From: Odermatt, Franz z.h.o.d.r.
Sent: Friday, 27 April 2001 16:47
Ton: Rossetti, Gian z.h.r.o.p.
Subject:

Dear Mr. Rossetti

Confidential info. for it (if it is correct):

I among other things met the QI-specialist of Baker & McKenzie today at a conference. Marnin Michaels is American, operated here from Zurich and helps banks to put the QI-Setup on.

In accordance with Michaels the IR started an Undercover action with the goal approximately three weeks ago here in Switzerland, the QI-procedures of the Switzerland banks in case of of US citizen in a field test 1: to test 1. It concerned obviously in particular also such problem definitions whether the adviser receives funds of Americans, also not-defined, upper he pieces of advice for the evasion of the QI-problem given and as he generally reacted to QI-problems.

The IRS people acted here in Switzerland obviously with the Einverständnis of Swiss revenue offices!

Michaels is rather encountered by coincidence this circumstances, because also he was asked by one of the agents over the QI-situation in Switzerland and he at the very much detailed and purposeful questions was then surprised. About its own stating it inquired then with colleagues in the IR whether IRS people are here more under more cover active, which was confirmed informally (and off the records).

MfG

Franz Odermatt

Reeves Declaration
Exhibit 13

13 JAN 86 - 7-8 • 197

Please complete form using typewriter or block capitals

CSITZ NBTAM

Nr.

4

Application for the opening of an account

gefilmt W

with Swiss Bank Corporation in Winterthur

Account-holder(s) Name and first names (Married women, please indicate maiden name)	Legal Domicile (exact address)	Nationality Date of birth	Profession
		FL	
	Vaduz		L

References / Identity Papers

Correspondence (Language English)
— except in the case of special circumstances left at the bank's discretion —

☐ To be sent to the following address:

☒ To be retained, against remuneration, by the Bank which is hereby discharged of any liability for possible consequences. Mail not claimed by me/us can be destroyed after a period of 3 years.

Power of Attorney in favour of (as per separate document) (Please indicate name, first name and domicile) refer to "Authorized Signatures"

Account / Securities deposit / Precious metals

- ☐ Account in Swiss francs
- ☒ Current account in foreign currency — US$ Current Account, Can$ Current Account
- ☒ Securities deposit
- ☐ Metal account
- ☐

Remittances received in a currency for which there is no corresponding account are to be credited at the Bank's discretion to an already existing account or to be maintained in the currency received.

If a Joint Account is opened, remittances received in the sole favour of one account holder only shall automatically be credited to the joint account, unless a separate account exists in the exclusive favour of the beneficiary or unless the Bank is in possession of instructions to the contrary.

Capital increases

- ☐ Please ask for instructions
- ☐ Exercise the rights
- ☐ Sell the rights
- ☐ The Bank is authorized to act at its discretion in the customer's interests

Special instructions

The Bank is discharged of all liability for decisions left to its discretion.

I/We acknowledge having taken note of the translation of the General Conditions reproduced on the reverse side and consider myself/ourselves bound by the official text in French and furthermore accept jurisdiction of the Courts in Winterthur

Metal accounts and the custody of precious metals and coins are subject to separate regulations.

As far as a married woman is by law required to obtain her husband's consent to maintain having been given.

TORONTO, Nov. 24, 1985

Place / Date

Signature(s)

GOVERNMENT EXHIBIT 13

CONFIDENTIAL TREATMENT REQUESTED U00000816

7173 N-07 2007

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Declaration on opening an account or deposit
(Form A according to Art. 4 and 5 ACB)

I/We the undersigned hereby declare

☐ that I am/we are acting for my/our own account

☒ that I am/we are acting for the account of the following person(s):

Name(s)/Company	Domicile, Country
Toronto	USA CMAT: 144 ✓

☐ that the domiciliary company I am/we are representing is controlled by the following individual(s):

Name(s)	First name(s)	Place of residence, Country

(cross where applicable)

I/We the undersigned am/are aware of the fact that banking secrecy, protected in accordance with Art. 47 of the Federal Law on Banks and Savings Banks of 8th November, 1934/11th March, 1971, is not unrestricted: The organs, employees and mandataries of the bank are liable to give evidence and information vis-à-vis the authorities where federal and cantonal stipulations require their so doing (e.g. in criminal proceedings). This obligation also exists vis-à-vis foreign authorities insofar as the Swiss Confederation grants judicial assistance to the country in question.
I/We the undersigned am/are also aware of the fact that the establishment of accounts and deposits maintained under numbers or passwords is a purely internal measure of the bank affecting in no way its obligation vis-à-vis the authorities to testify or to furnish information.

Name(s) First name(s)

Vaduz
Address of residence

TORONTO NOV. 24, 1985
Place, date

TERRITORY OF THE BRITISH VIRGIN ISLANDS

THE INTERNATIONAL BUSINESS COMPANIES ACT
(CAP. 291)

CERTIFICATE OF INCORPORATION (SECTIONS 14 AND 15)

No.

The Registrar of Companies of the British Virgin Islands HEREBY CERTIFIES pursuant to the International Business Companies Act, Cap. 291 that all the requirements of the Act in respect of incorporation having been satisfied,

[redacted]

is incorporated in the British Virgin Islands as an International Business Company this day of April, 2000.

Given under my hand and seal at Road Town, in the Territory of the British Virgin Islands

REGISTRAR OF COMPANIES

FSO12

RESOLUTION OF THE DIRECTORS IN TERMS OF PARAGRAPH 77 OF THE ARTICLES OF ASSOCIATION

IT WAS RESOLVED

a bank account be opened with

UBS AG
Paradeplatz 6, CH-8098 Zürich

on a credit basis only, in accordance with the bank mandate form, a copy of which is hereto attached and forms a part of these minutes.

IT WAS FURTHER RESOLVED THAT

a bank account be operated by the sole signature of:

We the undersigned being the Directors of [redacted] being entitled to receive notice of a Meeting of Directors do hereby consent to the above resolution being adopted by the Company.

Dated this 17th November 2000

UBS

Master no.

Opening of an account/custody account (firms, corporations and other institutions)

with UBS AG (hereinafter UBS) in Zurich-Paradeplatz

☒ Name account ☐ Numbered account (Cqua)

Accountholder (please enter exact name; if the accountholder is acting as a trustee, please also provide the name and exact designation of the trust)

Legal form

Company Limited

Legal domicile (please provide exact address (street, postal code and city))

Tortola, British Virgin Islands

Entered in commercial register of (city): British Virgin Islands

Business sector and activities

Domicile of head office (only required if account is opened for a branch or agency)

Vaduz

Affiliate of

Correspondence instructions

Except in special circumstances, correspondence will

☐ be retained for a fee and held available at UBS which is hereby discharged of any liability for possible consequences. Any and all communications retained in this manner shall be deemed to have been duly received by the client. Unless otherwise specified, the date on UBS document concerned shall be regarded as the date of receipt by the client. Correspondence, which the client does not claim, may be destroyed after 3 years.

☒ be sent to the following address:

Vaduz

☐ be sent in duplicate to the following address(es):

Language for correspondence: ☐ German ☐ French ☐ Italian ☒ English ☐ Spanish

Telephone*: Telefax*:

*please provide area code

UBS

Master no.

Account holder:

General authorization for fiduciary investments (If not desired, please cross out entire section).

I/We hereby authorize UBS to use all or part of the funds available at a given time in our account with UBS to make investments on a fiduciary basis in its name, but for our account and at our risk. Should UBS not receive or not receive in time (i.e. at least five days before maturity of the investment concerned) other instructions from us, UBS may choose debtor, amount, currency and maturity at its discretion. Any measures by the country in whose currency and in which the investment is made remain reserved. For sole proprietorships, this framework authorization remains valid after the death or incapacity of the proprietor.

Account/custody account instructions (please indicate the desired services)

Current account(s):	☐	Swiss franc (CHF)	☒	US dollar (USD)
	☐	German mark (DEM)	☐	Pound sterling (GBP)
	☐	French franc (FRF)	☐	Dutch guilder (NLG)
Other account(s):	☐		☐	
Custody/metal account:	☐	securities account	☐	metal account
Reference currency:	US $			

Special instructions

General conditions and place of jurisdiction

UBS may credit remittances received in a currency for which there is no corresponding account to an already existing account or may maintain them in the currency received. UBS is also specifically entitled to open additional accounts in the name(s) of the accountholder(s) in order to credit remittances in foreign currencies.

The following regulations/conditions also apply to this account/custody account relationship:

General conditions, the BASIC CONDITIONS for the use of electronic aids, the SPECIAL TERMS AND CONDITIONS for the use of the UBS card with PIN code and the Regulations governing custody and metals accounts.

I/We have received and taken note of a copy of these conditions/regulations and agree to be bound by them.

I/We agree to give UBS prompt notification of every change of address. If UBS is not in possession of a valid mailing address for correspondence, I/we agree to bear the fees and charges according to the prevailing schedule.

The present Agreement and/or Declaration shall be exclusively governed by and construed in accordance with Swiss law. The place of performance of all obligations of both parties, the place of debt collection, the latter only for Customers domiciled outside Switzerland, as well as the exclusive place of jurisdiction for any disputes arising out of and in connection with the present Agreement and/or Declaration shall be Zurich.

UBS reserves the right, however, to take legal action against the Undersigned before the authority of his/her/its domicile or before any other competent authority. In which event exclusively Swiss law shall remain applicable.

I/We instruct UBS to open an account in our name according to the conditions specified above. The authority to sign is indicated on a separate list of Authorized signatures.

Vaduz, November 29, 2000

Place/Date

Firm and signature(s)

For internal bank use only

Account Opening: ☐ through correspondence ☒ in presence of the contracting partner

Customer identification carried out as per regulations

OU-Ref./Customer Advisor's signature:

OU-Ref./Supervisor's sig. (as per directives PF/1/005.

63037 E V1 01.2000 P3 PB/DG/010):

UBS

A

Verification of the beneficial owner's identity
(Form A as per Art. 3 and 4 CDB)

Account/Custody Account No.:

Contracting partner:

Category:

The undersigned hereby declares:
(Mark with a cross where appropriate)

☐ that the contracting partner is the beneficial owner of the assets concerned.

☒ that the beneficial owner of the assets concerned is:

Last name/First name (or firm)	Address/Domicile, Country
[redacted]	FL USA

The contracting partner undertakes to inform the bank immediately of any changes.

Vaduz, November 29, 2000

Place/Date

Signature(s)

For internal bank use only

Customer identification carried out as per regulations
OU-Ref./Customer Advisor's signature:
OU-Ref./Supervisor's sig. (as per directives Pf/1/005):

63050 E V0 01.2000 P2

AG - SUBSTITUTE W-8BEN FOR INTERNAL PURPOSES ONLY

W-8BEN
(Rev. December 2000)
Department of the Treasury
Internal Revenue Service

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

▶ Section references are to the Internal Revenue Code. ▶ See separate instructions.
▶ Give this form to the withholding agent or payer. Do not send to the IRS.

OMB No. 1545-1621

Do not use this form for: — Instead, use Form:
- A U.S. citizen or other U.S. person, including a resident alien individual W-9
- A person claiming an exemption from U.S. withholding on income effectively connected with the conduct of a trade or business in the United States W-8ECI
- A foreign partnership, a foreign simple trust, or a foreign grantor trust (see instructions for exceptions) . . . . . W-8ECI or W-8IMY
- A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession that received effectively connected income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (see instructions) . . . . . W-8ECI or W-8EXP

Note: *These entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim they are a foreign person exempt from backup withholding.*

- A person acting as an intermediary W-8IMY

Note: *See instructions for additional exceptions.*

Part I Identification of Beneficial Owner (See instructions.)

1 Name of individual or organization that is the beneficial owner

2 Country of incorporation or organization: British Virgin Islands

3 Type of beneficial owner: ☐ Individual ☒ Corporation ☐ Disregarded entity ☐ Partnership ☐ Simple trust ☐ Grantor trust ☐ Complex trust ☐ Estate ☐ Government ☐ International organization ☐ Central bank of issue ☐ Tax-exempt organization ☐ Private foundation

4 Permanent residence address (street, apt. or suite no., or rural route). Do not use a P.O. box or in-care-of address.
Tortola, BVI

City or town, state or province. Include postal code where appropriate.
Tortola

Country (do not abbreviate): British Virgin Islands

5 Mailing address (if different from above)
Vaduz, Liechtenstein

City or town, state or province. Include postal code where appropriate.
Vaduz

Country (do not abbreviate): Liechtenstein

6 U.S. taxpayer identification number, if required (see instructions) ☐ SSN or ITIN ☐ EIN

7 Foreign tax identifying number, if any (optional)

8 Reference number(s) (see instructions)

Part II Claim of Tax Treaty Benefits (if applicable)

9 I certify that (check all that apply):
- a ☐ The beneficial owner is a resident of _____ within the meaning of the income tax treaty between the United States and that country.
- b ☐ If required, the U.S. taxpayer identification number is stated on line 6 (see instructions).
- c ☐ The beneficial owner is not an individual, derives the item (or items) of income for which the treaty benefits are claimed, and, if applicable, meets the requirements of the treaty provision dealing with limitation on benefits (see instructions).
- d ☐ The beneficial owner is not an individual, is claiming treaty benefits for dividends received from a foreign corporation or interest from a U.S. trade or business of a foreign corporation, and meets qualified resident status (see instructions).
- e ☐ The beneficial owner is related to the person obligated to pay the income within the meaning of section 267(b) or 707(b), and will file Form 8833 if the amount subject to withholding received during a calendar year exceeds, in the aggregate, $500,000.

10 Special rates and conditions (if applicable—see instructions): The beneficial owner is claiming the provisions of Article _____ of the treaty identified on line 9a above to claim a _____ % rate of withholding on (specify type of income): _____

Explain the reasons the beneficial owner meets the terms of the treaty article: _____

Part III Notional Principal Contracts

11 ☐ I have provided or will provide a statement that identifies those notional principal contracts from which the income is not effectively connected with the conduct of a trade or business in the United States. I agree to update this statement as required.

Part IV Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:
- I am the beneficial owner (or am authorized to sign for the beneficial owner) of all the income to which this form relates.
- The beneficial owner is not a U.S. person.
- The income to which this form relates is: not effectively connected with the conduct of a trade or business in the United States or is effectively connected but is not subject to tax under an income
- For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that can disburse or make payments of the income of which I am the beneficial owner. I agree that I will submit a new form within 30 days if any certification made on this form becomes incorrect.

Sign Here ▶ _____ Signature of individual authorized to sign for beneficial owner — 28.12.2000 Date (MM-DD-YYYY) — DIR. SECRETARY Capacity in which acting

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 25047Z Form W-8BEN (Rev. 12-2000)

61520 E J2 Original (UBS AG INTERNAL)

Reeves Declaration
Exhibit 14

From: Schumacher, Hansruedi
Sent: Friday, February 08, 2002 5:45 PM
To: Foellmi, Markus z.h.f.m.i.; Saunders, John; Zimmermann, Franz; Liechti, Martin; Von-Wyl, Walter
Cc: Topley, Abigail+; Skierka, Rainer; Elliott, Walter; Challis, Shaun; French, Andrew; Challis, Shaun; Webb, Jim; Huser, Martin; Landolt, Stefan; Morris, Thomas; Morris, Tom
Subject: RE: QI/US Compliance

Dear all

Following on from the recent exchanges of e-mails regarding the above topic, I would like to stress that there is a clear objective for our Business Area NorthAmericas to grow its investment Assets under Management and increase overall return on assets for tax-compliant US clients.
In London we have established a subsidiary (UBS Investment Advisors Ltd.) which is registered with the US SEC to provide investment Advisory Services to 'W9' US Resident Clients. This project received sign off from the Private Banking Business Committe, the Legal Structure Committee and the new Product Group.
The now to be apllied solution for Switzerland , i-e. PM only and no reporting to the USA, is not appropriate for the business in London. For the new UK Subsidiary, we must be able to undertake reporting of all Deemed Sales Income.
We should be grateful for your support in achieving this and enabling London to investigate further a solution for reporting, ie. Though a custodian (Citibank or other)or direct the IRS.
In the meantime, London will arrange for item (1)to (3) below to be achieved by the 28 February deadline.

Additionally UBS PB in CH must be able to have a relationship with tax-compliant US clients, to disclose and report accordingly.

If we cannot accept tax-compliant US clients, either in London and/or Switzerland, we will miss out on a huge opportunity.

As Markus is proposing, we all should have a tel conf/meeting in order to discuss this issue and to come forward with clear and definite instructions.

nice weekend
Hansruedi

-----Original Message-----
From: Foellmi, Markus z.h.f.m.i.
Sent: Freitag, 8. Februar 2002 16:30
To: Saunders, John; Zimmermann, Franz; Liechti, Martin
Cc: Topley, Abigail+; Skierka, Rainer; Schumacher, Hansruedi; Elliott, Walter; Challis, Shaun; Von-Wyl, Walter; French, Andrew; Challis, Shaun; Webb, Jim; Huser, Martin; Landolt, Stefan
Subject: RE: QI/US Compliance

Gentlemen
I think the following clarifications and differentiations are necessary in order to avoid misunderstandings, at least from a Swiss perspective and with regard to customers of booking center Switzerland and solely with regard to the tax aspects of the issue:
1. It is essential not to confuse the fundamental QI concept and the reporting requirements thereunder with the issues arising out of the "deemed sales rules".
2. Under the QI regime, a non-exempt US person should fundamentally file a W-9 with the QI, with which the US person also consents to be disclosed to the IRS.
US persons not consenting to disclosure will, in a jurisdiction which has strict banking secrecy, be penalized by fundamentally not being able to invest in US securities (and if nevertheless being invested therein being subjected to Backup

GOVERNMENT EXHIBIT 14

Reeves Declaration
Exhibit 15

Cross-Border Banking Activities into the United States (version November 2004)

1. Introduction; Regulated Activities in United States and Status of UBS Entities

The U.S. legal regulatory framework draws an important distinction between banking and securities activities:

Banking activities, most important cash and custody services, are governed by various federal and state laws and are regulated by various federal and state banking supervisors, including, in the case of UBS AG's branches, agencies, and bank depository subsidiaries, the Federal Reserve Board (the "Board"), the Office of the Comptroller of the Currency ("OCC"), the Federal Deposit Insurance Corporation ("FDIC") and the Connecticut, Illinois and Utah state banking departments.

Securities related activities (i.e., broker-dealer, investment advisor) are governed by various federal and state laws and are regulated by the Securities and Exchange Commission ("SEC") and state securities supervisors. Broker-dealers also are members of, and governed by, a self-regulatory organization ("SRO") known as the National Association of Securities Dealers ("NASD"). There is a separate regulator and regulatory scheme for providers of commodities services.

UBS AG has several U.S. branches and agencies and various non-banking subsidiaries all properly licensed, but these licenses do not encompass cross-border services provided to U.S. residents by UBS AG offices or affiliates outside of the United States. (Unless otherwise specified, all references herein to "UBS AG" refer to offices located, or employees based, outside of the United States).

2. Advertising & Events

Advertising: Some state laws prohibit banks without a banking license from that state from soliciting deposits from that state's residents. States also may prohibit non-licensed lenders from making certain loans to consumers in such states. Any entity outside of the United States that is not registered with the SEC (and, in the case of brokerage activities, with the NASD) may not advertise securities services or products in the United States. Therefore, UBS AG will not advertise and market for its services with material going beyond generic information relating to the image of UBS AG and its brand in the U.S.

Events. UBS AG may not organize, absent an opinion from Legal, events in the U.S.

3. Establishing Relationships with New Clients Resident in the United States

Securities services/products. UBS AG may not establish relationships for securities products or services with new clients resident in the United States with the use of U.S. jurisdictional means. Thus, it must ensure that it does not contact securities clients in the United States through telephone, mail, e-mail, advertising, the internet or personal visits.

Banking services/products. To avoid possible violations of state law and/or to avoid establishing and maintaining a place of business in the United States, UBS AG should ensure that:

- No marketing or advertising activity targeted to U.S. persons takes place in the United States;
- No solicitation of account opening takes place in the United States;
- No cold calling or prospecting into the United States takes place;

GOVERNMENT EXHIBIT 15

- No negotiating or concluding of contracts takes place in the United States;
- No carrying or transmitting of cash or other valuables of whatever nature out of the United States takes place; The same applies to actively organizing such transfers or attempting to circumvent this prohibition through other means.
- No routine certification of signatures, transmission of completed account documentation, or related administrative activity on behalf of UBS AG takes place;
- Employees do not carry on substantial activities at fixed location(s) while in the United States thereby establishing an office or maintaining a place of business.

Outside the United States. Soliciting and accepting banking business from U.S. residents while they are outside of the United States generally is not problematic.

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4. **Maintaining Relationships with Clients Resident in the United States**

Securities services/products. UBS AG may not maintain relationships for securities services or products with clients resident in the United States, unless the relationship is conducted without the use of U.S. means (e.g., telephone, mail, e-mail, advertising, the Internet or personal visits into the United States) and consistent with procedures UBS AG has established in this regard.

Banking services/products. If UBS AG obtains a U.S. resident client for banking services without violating the restrictions set forth in section 3 above, it may service the account:

- UBS AG may provide statements, account information and transaction confirmations to the client, provided it does so in accordance with the terms agreed by the client and in compliance with all applicable internal procedures.
- UBS AG may provide product and service information subject to the points mentioned in section 6 below.
- UBS AG may certify signatures, transmit account documentation and conduct related administrative activity for existing clients.

Under no circumstances will UBS AG be carrying or transporting cash and other valuables of whatever nature on behalf of clients into or out of the United States. The same applies to actively organizing such transfers or attempting to circumvent the prohibition.

When traveling cross-border, UBS AG employees always must remember that all clients of UBS AG expect us to take all necessary steps to safeguard confidentiality. Client advisors are referred to separate guidance on the protection of confidential information and other available resources that may assist.

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5. **Dealing with Financial Intermediaries and other Non-Private Clients Resident in the United States**

Securities services/products. UBS AG may not deal with financial intermediaries or other non-private clients resident in the United States in matters relating to securities services and products, except for registered broker-dealers and U.S. licensed banks, provided that it does not directly or indirectly deal with the private and non-private clients of such broker-dealers and banks.

Banking services/products. UBS AG may accept referrals from financial intermediaries in the United States, provided that the financial intermediaries (i) do not work for UBS AG, (ii) do not actively market UBS AG services and products, and (iii) make referrals only to accommodate client requests. In dealing with such intermediaries, UBS AG must comply with the restrictions set forth in sections 3 and 4 above.

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6. **Product Offering**

Securities products. All securities products offered to U.S. persons must be compliant with U.S. laws, which generally means that they must be registered with the SEC. The purchase of securities may be exempt from registration if certain condition are met.

Lending products. It may be necessary to obtain a state license to offer lending products, depending on the purpose, amount, interest rate and borrower of the product. There is a reasonable argument that federal consumer protection laws do not apply to products offered by non-U.S. entities, but state consumer protection laws (e.g., anti-usury) may apply.

Research. UBS AG research may not be distributed to clients in the United States, except in very limited circumstances.

E-Banking. UBS AG has implemented specific restrictions for e-banking for U.S. customers.

Reeves Declaration Exhibit 16

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UBS AG
P.O. Box, CH-4002 Basel
Tel.+41-61-288 20 20

UBS Switzerland
Legal & Compliance International

Franz Zimmermann
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franz.zimmermann@ubs.com

www.ubs.com

Fax

9 January, 2002

Urgent/ Strictly Private & Confidential

to Walter Stürzinger, CRO UBS Group — Fax +

cc Stephan Haeringer, Georges Gagnebin, Marcel Rohner, Martin Liechti, Hans-Peter Bauer, Hansruedi Schumacher, John Cusack, Markus Foellmi — Fax

pages 2 (including this page)

subject **US crossborder business model/ QI : Sales deemed to be effected in the United States**

Dear Walter:

I am following-up on your yesterday discussion with John Cusack and hasten to let you have a brief overview of the issues currently subject to intensive discussion:

A. U.S regulatory regime plus QI

Many of the core PB services provided by UBS to U.S. persons out of Switzerland are problematic due to the very restrictive approach the U.S regulatory regime takes with regard to permissible cross-border activities. As UBS's U.S. exposure has substantially increased with the acquisition of Paine Webber, PB senior management has asked to review this issue carefully and to submit proposals for the future business model. A memo dated September 13, 2001, outlined the issues.

While compliance with SEC rules is an old problem, the possible reporting/back-up withholding duties of QI banks under the so-called "sales deemed to be effected in the United States" is an issue that in relation with the QI first popped up back in December 2000 when CTX flagged it. This rule -if applicable in the QI regime - essentially says that a QI has to report gross sales proceeds on non US-securities held for a U.S person if the sale is deemed to be effected in the United States. The latter is the case if the customer has regularly transmitted instructions concerning this and other sales from within the United States. Since a Swiss QI is not in a position to disclose customer names, the QI has to alternatively levy back-up withholding tax on the sale proceeds. The key impact of the applicability of the said rule under the QI framework is that compliance will be checked within the QI audit 2003 for the year 2002.

B. The Process leading to the Current Situation

Endorsement / Disclaimer

DOC12586.doc

GOVERNMENT EXHIBIT 16

ab

The issue of deemed sales has regularly been discussed at the QI Co-ordination Committee meetings. For a number of reasons, the final determination on this issue has not been reached. A major reason for this delay is that the bank had received two legal opinions during 2001 which state that the QI rules take precedent over general IRS-rules which are the basis for the deemed sales provisions with the result that a QI has no reporting obligations with regard to non-U.S. securities. On the other hand, there is apparently a tendency within the auditors world (this may hold true also for UBS's external auditor) to go for the applicability of the deemed sales rules within the QI regime. The IRS-audit guidelines are not yet finalised and none of the existing drafts specifically addresses the issue at hand.

C. The Problem and the Solution

Assuming that the deemed sales rules apply, the bank is potentially QI non-compliant for the U.S. customers concerned. (The bank currently reviews how many of the actual customers may qualify under the rule). It is important to note in this context that the QI has "only" to be in *substantial* compliance with the QI rules to receive a positive audit rating. As this QI audit will cover the year 2002, it has become crucially important to immediately address this question once and for all.

Since instructions coming from the United States territory trigger the deemed sales duties, the most likely solution is that the bank will, on shortest notice possible, stop to accept such instructions. In this sense, the relationships will be frozen (with a view to ultimately changing it into a PM mandate). Any course of action needs detailed analysis especially for three reasons.

- we must assess our legal risk arising out of such a "freeze" (respectively from an automatic transfer into PM accounts) from a Swiss contract law perspective
- from a U.S. SEC rules point of view need we make sure that the transition from now advisory into discretionary accounts does not undermine the bank's efforts to achieve Broker-Dealer and Investment Adviser compliance.
- the "automatic" transfer to discretionary relationships must hold water from a U.S. tax rules perspective as U.S tax authorities may perceive this to be a circumvention of QI obligations

A working group comprised of the markets, LCI, U.S.counsel and CTX will look into these issues to find appropriate solutions. Such detailed proposals should be ready by next Tuesday for the UBS Switzerland Executive Board meeting. You will of course receive copies of those recommendations.

We just finished an urgently set-up conference call amongst QI Co-ordination Committee members. At this call CTX reaffirmed its position that the deemed sales rules apply to QI banks. Against this background and taking into account the risks involved, the Committee agrees with the above outlined course of action.

I hope this is sufficient for your purposes.

00012586.doc

ab

Best regards,

Franz Zimmermann
Legal Counsel

00012585.doc

Reeves Declaration Exhibit 17

From: Tschirren, Eric
Sent: Thursday, February 28, 2002 7:22 PM
To: Zimmermann, Franz; McLoughlin, Mike; Buehrer, Oliver z.h.b.r.6.
Cc: Schumacher, Hansruedi; Von-Wyl, Walter; Skierka, Rainer; Salzmann, Christoph
Subject: RE: Deemed sales

Dear Frank,
Many thanks indeed for your assistance we appreciate it.

Mike,
Good news!
Can you please issue an info in Nassau to that effect so that everyone is on the same page. I have discussed it with Thierry and Christoph and we are doing the talking to the clients and will make a few exceptions where it is necessary.
Thanks

Oliver,
We should make an exception for our mutual client and we will talk to him about this and confirm that his structure will be acceptable in Zurich so that we can start making the transfer of the account to you.
Thanks for confirming your agreement.

Eric

-----Original Message-----
From: Zimmermann, Franz
Sent: Thursday, February 28, 2002 8:29 AM
To: McLoughlin, Mike
Cc: Tschirren, Eric; Schumacher, Hansruedi; Von-Wyl, Walter; Skierka, Rainer
Subject: RE: Deemed sales
Importance: High

Hi Mike,

Thanks for your mail requesting a ruling in this matter. After consultation
with Walter, I wish to confirm that we agree with your description of the
bank's position on non-US corporations with a US beneficial owner. Being a
lawyer, I have nevertheless two points:

- the bank must be properly documented (W-8BEN) signed by the directors of the
company) to be in a position to accept that the customer is an non-flow-through
entity

- I do not express any view on whether the tax treaty between USA and the
Bahamas calls for a different treatment of such structures in Nassau.

I hope this is of assistance.

Kind regards,

Franz

PS: Please do never assume that non-reaction from my side within a unilaterally
set deadline may be construed as agreement.

GOVERNMENT EXHIBIT 17

-----Original Message-----
From: McLoughlin, Mike
Sent: Mittwoch, 27. Februar 2002 17:22
To: Schumacher, Hansruedi; Zimmermann, Franz
Cc: Tschirren, Eric; Salzmann, Christoph; Matthey, Thierry
Subject: Deemed sales
Importance: High

All

This is to confirm our understanding in relation to 'corporate' clients the BO of whom is a US resident following our telecon today. This understanding is applicable to accounts either in Nassau or in Switzerland i.e. a consistent approach is applied.

Our understanding:

1. For flow-through corporate US resident BO unable to issue orders.

2. For non-flow-through corporate (Bahamian IBC, Panamanian Cos, BVIs etc) it is possible for the US resident BO to issue orders from the US.

3. From an SEC perspective re non-flow-through corporate the US resident BO should NOT issue orders from the US.

Banks position:

1. Flow-through corporate to open PM account, no exceptions.

2. For non-flow-through corporate the Bank is looking to compliance with the SEC rules and US resident BOs should be encouraged NOT to issue orders (under a Power of Attorney) from the US. Only in exceptional circumstances should we agree to the US resident BO issuing orders from the US which equates to acceptability under deemed sales rules, but not to full SEC compliance.

Unless we hear to the contrary, within the next 24 hours, we will assume the above understanding is correct.

Thanks and regards

Mike

56

Reeves Declaration Exhibit 18

[redacted]

CONTACT REPORT

Number		Currency	Value
[redacted]		USD	1'599'000
	Strategy	Since	Performance
	Advisory	2004 ytd	5.6%
Date	Where	City	Who
29.11.2004	[redacted]	New York	Client

Introduces a new code to facilitate discreet email contacts:
EUR = orange
USD = green
GBP = blue

100K = C
250K = 1 nut
1 M = a swan

DOCU=D

Place EUR cash in DOCU approx 3%
Place USD in DOCU more or less ATM

Buy forward accrual USD 1 mio ag. EUR (buying EUR!), lower level about 2.5 cents below spot. Call to confirm final price with him.

Email:

Took care of the [redacted] this morning, green @ 12 (about 13275), orange @ 3 (around 13720). I say about because I neglected to write down the exact numbers (too early in the morning), I can get them to you later.

I also booked the other trip, because as I was talking to the agent, it looked like it was moving away from us and I believe that you would be good with that. I got you [redacted]

We expect to move in a range at the moment.

I had not forgotten you, on the contrary. I sent you a mail the next day which you do not seem to have received, but which, interestingly enough, is not to be found in my sent items either.

The upper and lower levels are [redacted] First leg is December 7th. I was able to do it when the level was [redacted] but had to move fast because it was on the upswing. Later on in the day we would have been over [redacted] So I decided to move without first consulting you, since you had agreed in essence. That saved us some money.

The [redacted]s are all comfortable: about 2.5 orange nuts @13710 (3%) and about 2.05 green nuts @13270 (12%).

All clear?
Dieter

PS Just give me a short confirmation when you get this mail, to make sure things are working.

Follow-up: **Next visit:** Apr05

GOVERNMENT EXHIBIT 18

Reeves Declaration Exhibit 19

UBS

CONFIDENTIAL

Project GLOBUS

Analytic risk assessment

February 22, 2006

CONFIDENTIAL TREATMENT REQUESTED

U00005976

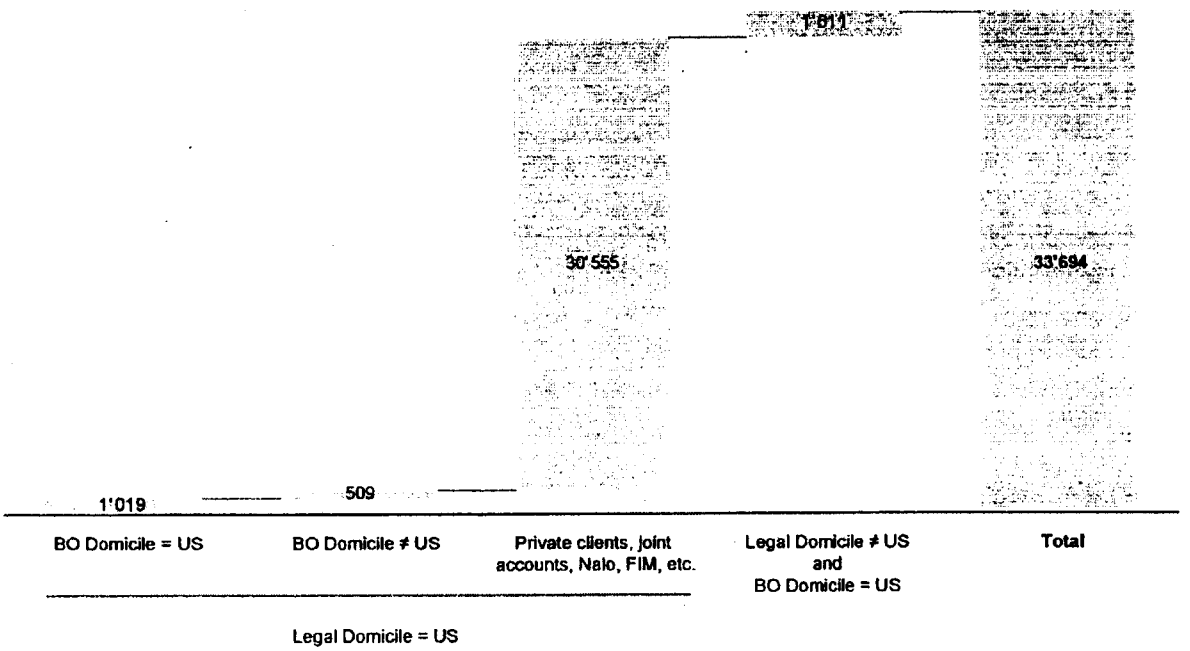
GOVERNMENT EXHIBIT 19

Definitions & disclaimer

- If not mentioned otherwise
  - Data comprise accounts where Legal Domicile and/or Beneficial Domicile is United States (= US client); the resulting scope of accounts includes several business types (e.g., clients with W9-form, clients without W9-form, US clients of non-US FIMs, "Nalo")
  - The scope of data includes all WMI Booking Centers, plus WMCH, plus BB, but within this scope excludes the W9-relevant Booking Centers (i.e., UBS Swiss Financial Advisers AG, UBS AG Stamford Branch, and UBS International, Inc.)
  - Data refers to full-year 2005 for flow figures and 31 December 2005 for stock figures
- All data used in the analyses are sourced from GMIS, which again draws on underlying local data sources. Although data output and analyses have been validated carefully, quality of the conclusions still depends on the quality of input data in the Booking Centers, which may vary across Booking Centers
- There is no systematic transparency on how the clients tax-declare their investments (e.g., clients without W9-form ordering income statement or capital gains/losses statement)

Size of US business

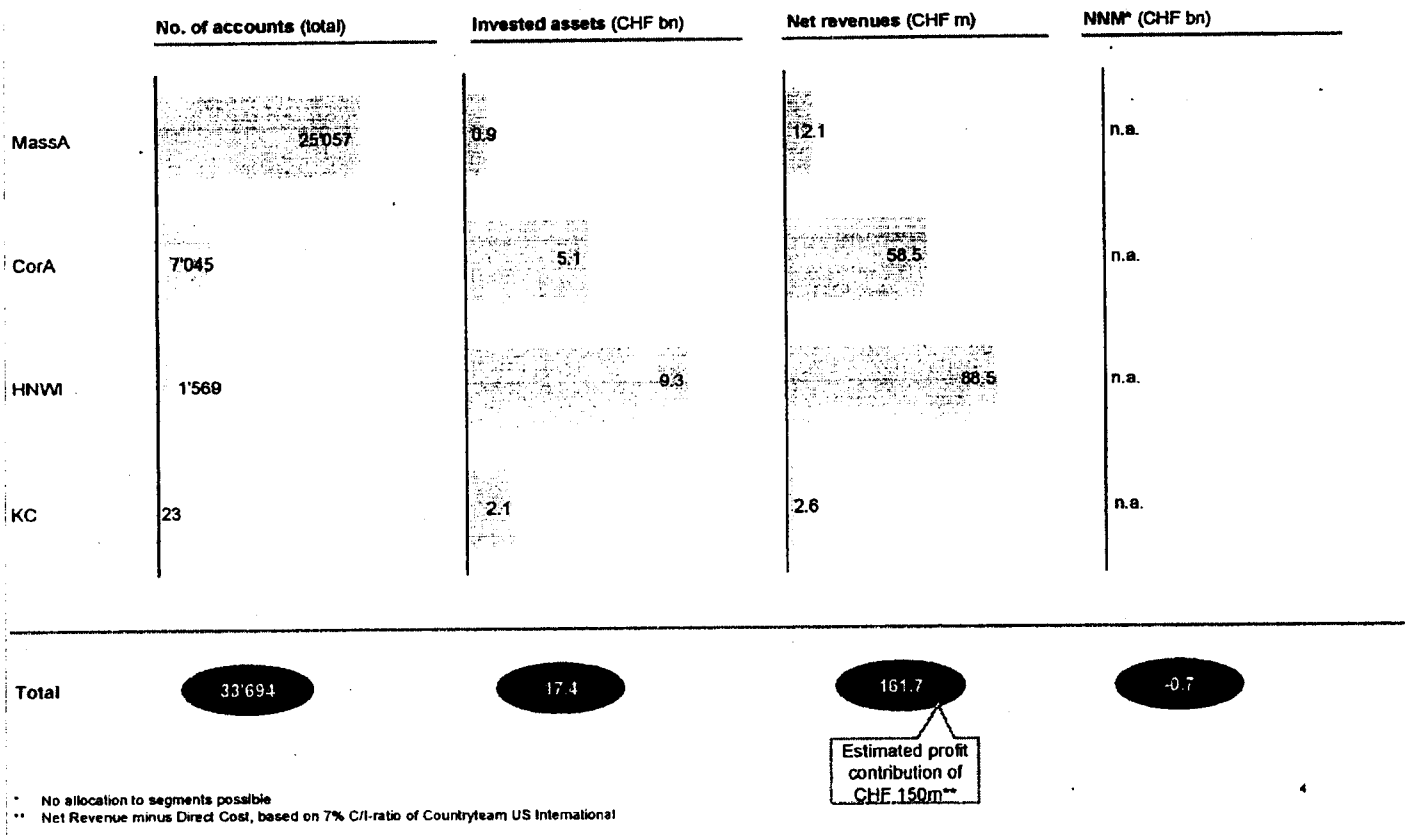
No. of accounts



Cornerstones of US service model

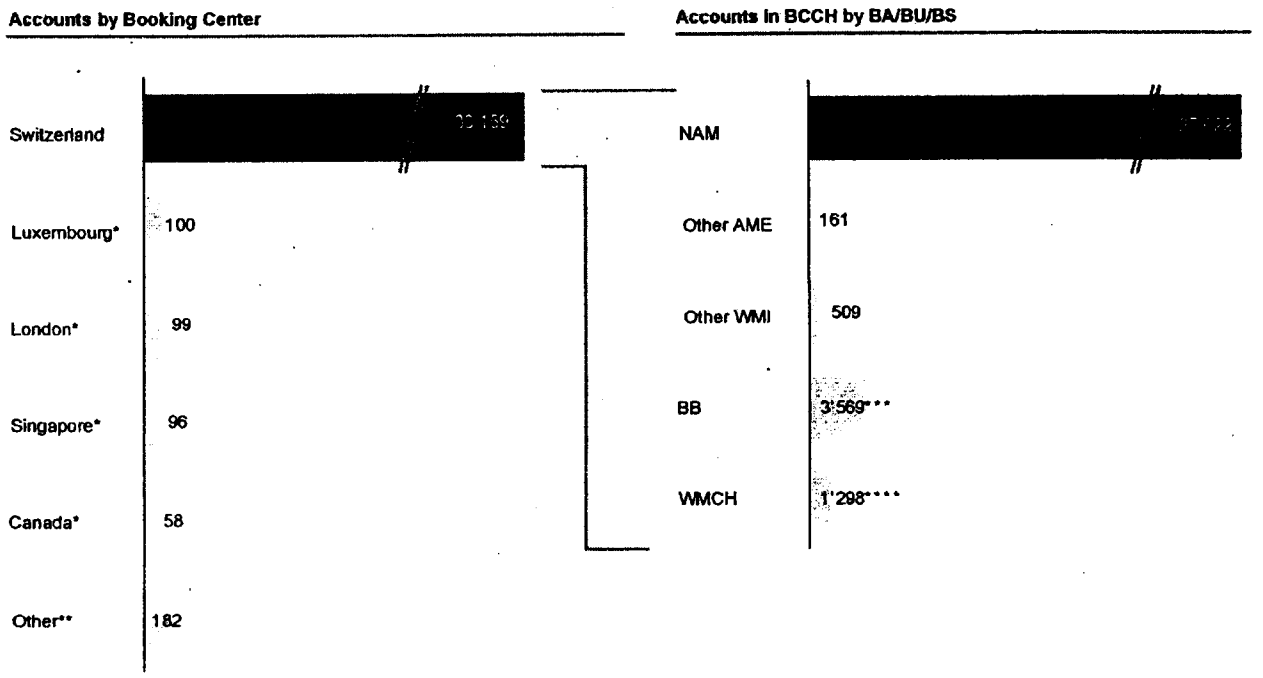
1. Booking Center Switzerland (BCCH)
   - Centralization of US-domiciled clients in WMI BS North America NAM (except FIM business and Nalo)
   - Cases that are not centralized need exemption approval
2. International Booking Centers
   - Not active in business with US-domiciled persons
   - Incidental relationships with US-domiciled persons need to be bundled within the Booking Center
3. No use of US means
   - Retained mail
   - Discretionary solutions (to prevent need for interaction and investment advice and to exclude broker/dealer risk)
4. Limited traveling to US
5. No UBS financial planning services

Key figures per segment



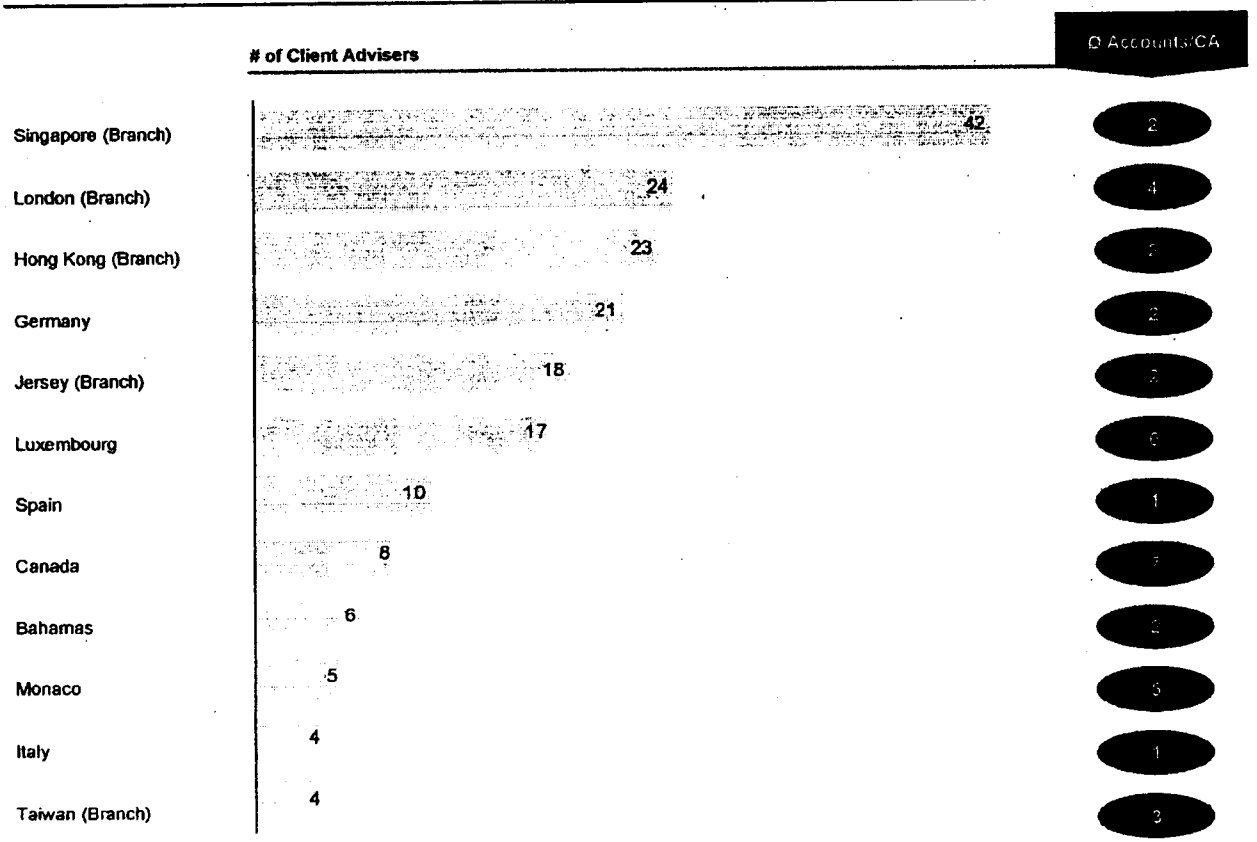
* No allocation to segments possible
** Net Revenue minus Direct Cost, based on 7% C/I-ratio of Countryteam US International

1 2 Centralization of US clients



* Mostly/exclusively accounts with W9-form
** Hong Kong, Jersey, Germany, Monaco, Bahamas, Taiwan, Spain, Italy (mostly/exclusively accounts with W9-form)
*** Mainly "Nachrichtenlos"
**** Mainly FIM business

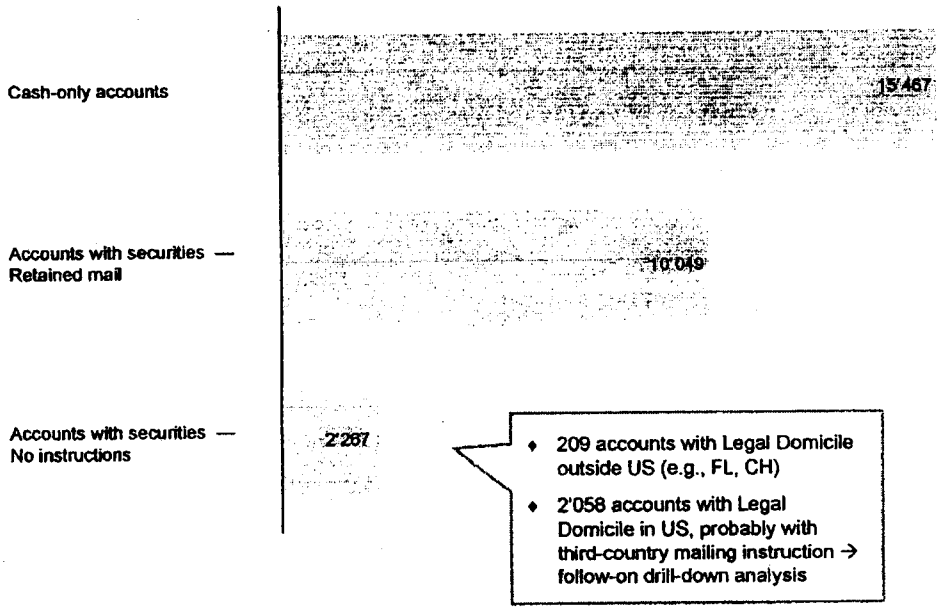
2 CAs in International BCs dealing with US clients*



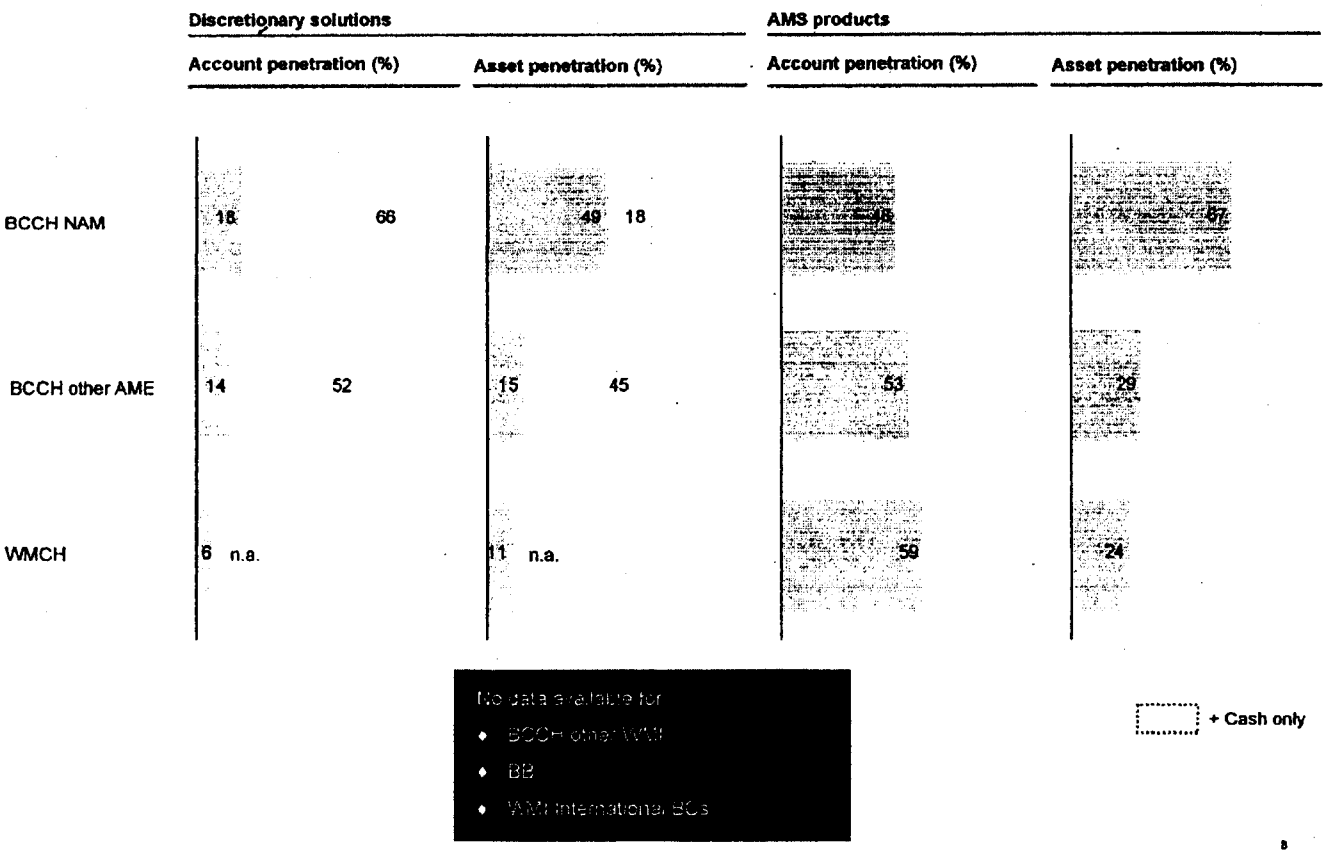
* Mostly/exclusively accounts with W9-form

3 No use of US means (1)

Basis: BCCH BU Americas

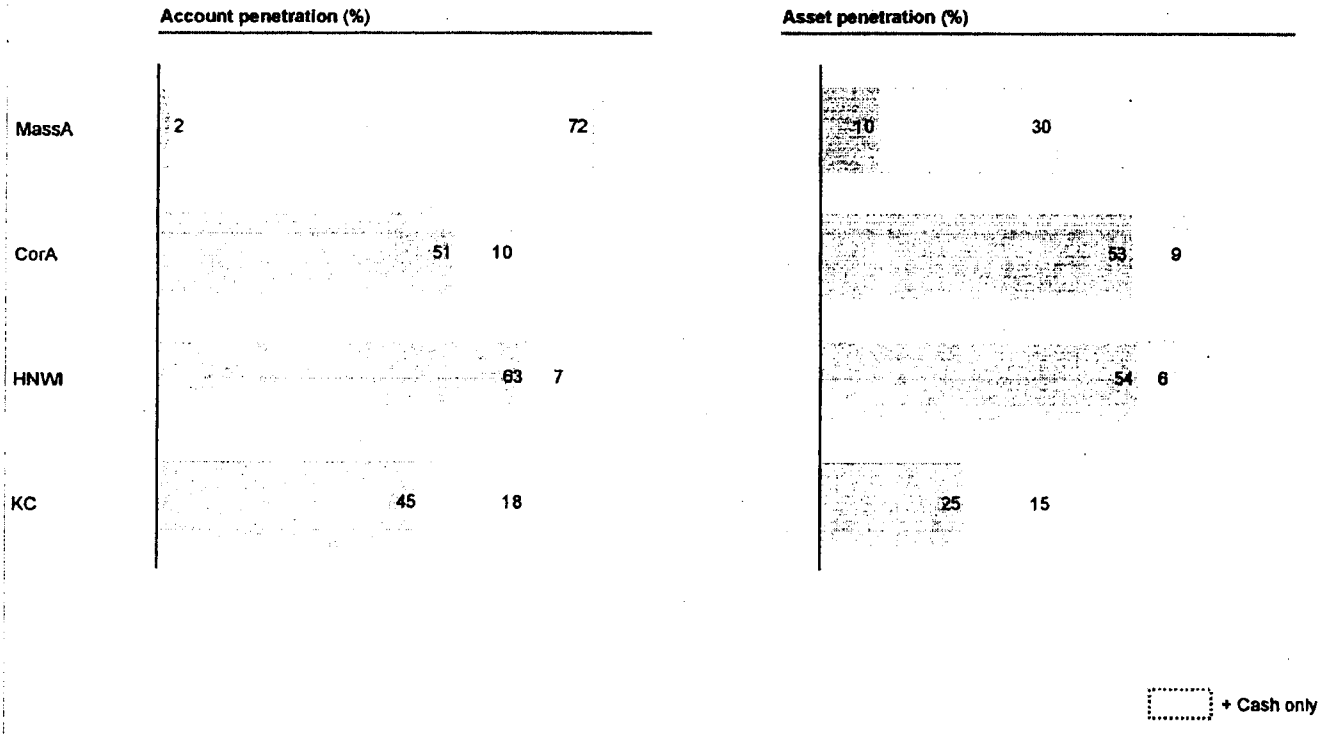


3 No use of US means (2)



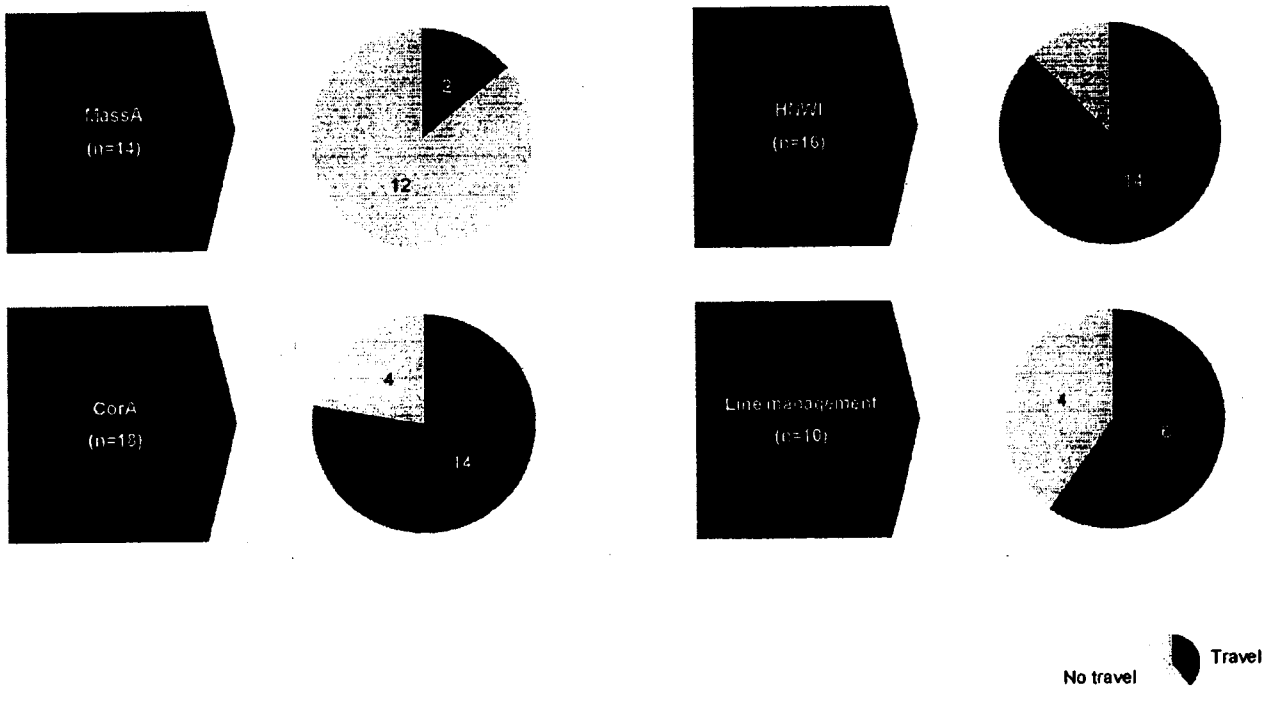
3 No use of US means (2) — Discretionary share by client segment *BACKUP*

Basis: BS NAM



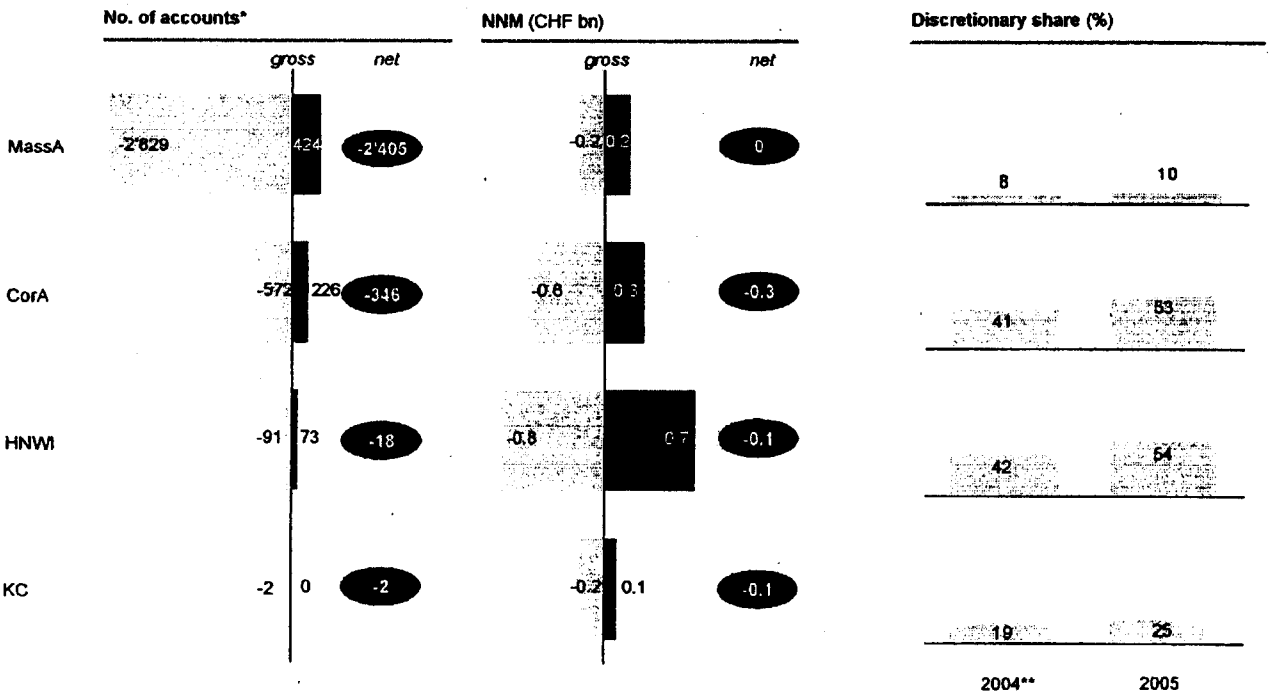
4 Traveling

Number of CAs; Basis: BS NAM only



Development 2004 — 2005

Basis: BS NAM



* Closings approximated by being based on technically existing accounts with zero balance at year-end and outflows during 2005
** Estimate based on 2005 level and development in Countryteam US International

Current and planned control framework

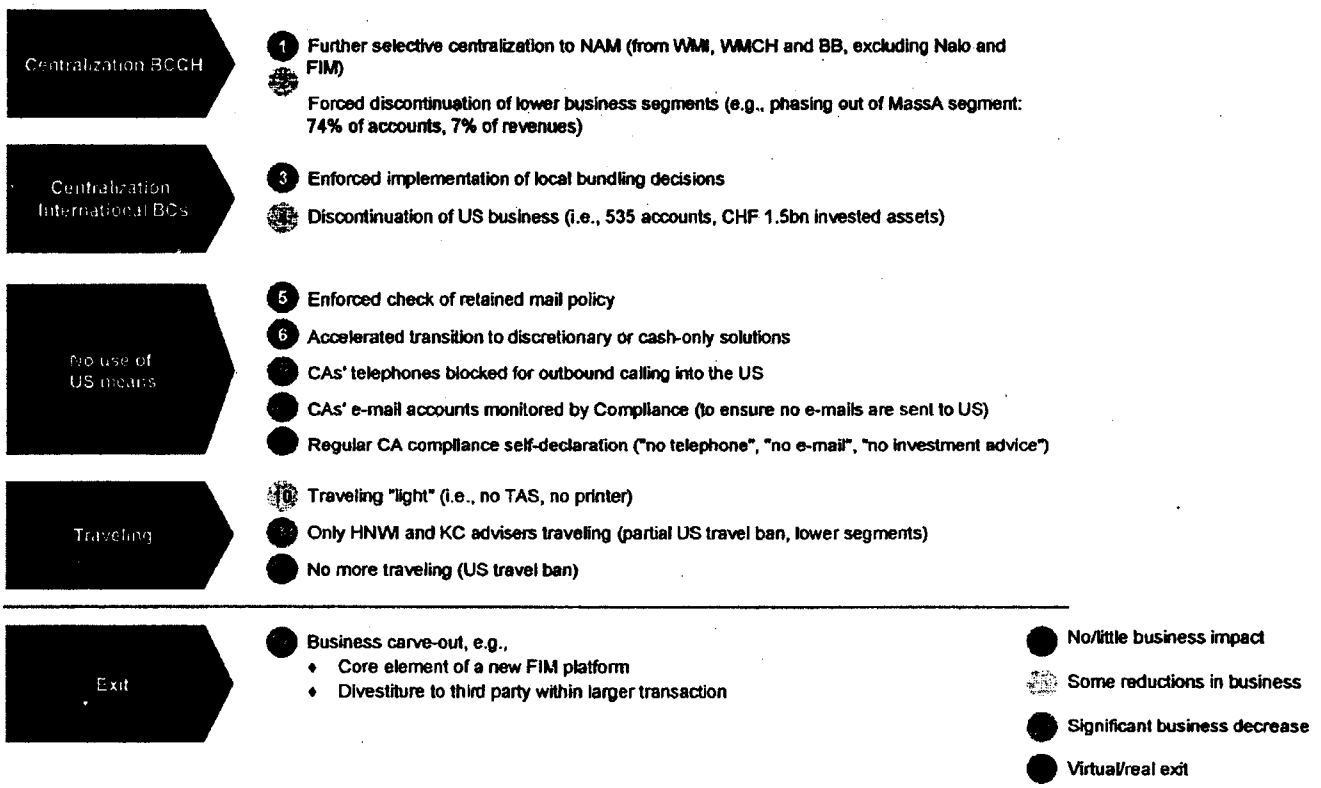
Current framework

- All exemption requests to be signed by RMM North America
- Regular CA education (e.g., US country paper)
- Service model guidelines and instructions
  - Cash or discretionary
  - No US securities
  - No investment advice, no brokerage/ dealing
  - Retained mail

Planned extensions

- Build-up of US Center of Competence (2 initial FTEs)
  - Advising all client advisers with US clients, in e.g.,
    - Opening of custody account
    - Appropriate entity (AG vs. SFA)
  - Systematic monitoring of e.g.,
    - Exemption requests
    - Changes in domicile
    - Retained mail compliance
    - Products/solutions compliance
- Supervision of FIM business with US clients

Potential enforcement measures



Competitor behavior (Credit Suisse)

- W9-business in separate legal entity (Credit Suisse Private Advisors), similar to UBS SFA
- Other business within parent bank
  - Centralized
  - Smaller in size than UBS business
  - Regular travel to US but less frequent
- Further US business with private banking subsidiaries ("private banks")
  - Centralized
  - Small
  - Some travel

Contact information

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Reeves Declaration Exhibit 20

UBS Wealth Management

Cross-Border Business Training Workshop North America 2004

Franz Zimmermann, Legal Counsel WM&BB
September 20, 2004

CONFIDENTIAL TREATMENT REQUESTED

U00006007

GOVERNMENT EXHIBIT 20

Agenda

- Goals of the workshop
- Overview of the relevant risks
- Cross-border regulations and permissible activities in the USA and Canada
- Discussion of Case studies

UBS Wealth Management

Goals of the Workshop

- Sharpen awareness of the legal (incl. tax)) and regulatory environment and related risks
- Adapting the behavior to the legal and regulatory framework and to the respective risk situations
- Sharing of knowledge with colleagues and risk specialists (particularly IT- security) as well as discussion of relevant issues important to you

UBS Wealth Management

The Battle Field

- Increase of business targets (acquisition of clients, NNM, sale of products etc.), change of client expectations, sophistication of services.

- Increased exposure in target country, change of regulators' attitude, shift of regulators' focus, expectations of the home regulator

UBS Wealth Management

Overview over the Relevant Risks

- Non-compliance with rules and regulations of the target country , in particular
  - supervisory rules (banking and securities activities)
  - tax regulations
- Infringements on Client Confidentiality (Booking Center Issue)
- Risks resulting from particularities of the US legal system, e.g. broad subpoena powers, long-arm jurisdiction rules

UBS Wealth Management

X-border USA: The regulatory framework is much too complex to understand but ....

- US Securities Laws:
  - SEC Exchange Act 1934/ Investment Advisers Act 1940
    - triggering event: Use of US jurisdictional means, e.g. telephone, fax, mail, e-mail or personal visits
    - issue: registration risk for UBS AG
- QI/Deemed sales:
  - QI Basic: Segregation of US W9 from Non-W9 customers and making sure that Non-W9 clients do not hold US securities
  - Deemed sales: Enlarges the scope to Non-US securities and restricts the execution of securities orders stemming from US soil

UBS Wealth Management

X-border USA: …. which makes the solution simple

- No active or concrete solicitation for UBS AG's services (neither banking nor securities) takes place in the US (other than for UBS AG's US offices)
  - discussion of *banking* services (cash and custody accounts) on a purely unsolicited basis is possible even when using US jurisdictional means
- Securities-related activities
  - provision of securities services and products without the use of US jurisdictional means only. In a nutshell: No securities-related communication from and to the US allowed
  - this ringfencing model essentially takes care of SEC and deemed sales-issues

UBS Wealth Management

X-border Canada:

- Taking a broad brush approach: Similar system as in the USA, i.e.
  - distinction between banking vs. securities activities
  - discussion of custody services and *reporting* in Canada on banking and securities-related activities permissible
- But UBS is not subject to any contractual obligations in relation to taxes!!

UBS Wealth Management

US Subpoenas

- Command to appear at a given time and place, issued by one of the parties of a litigation, with force of a court order
- Can force parties and non-parties to make witness statements
- May be served on UBS employee as soon as he/she is on US soil, even if on a leisure trip in the US
  - this creates jurisdictional conflicts, i.e. UBS employee is bound by Swiss banking secrecy (irrespective that he/she is abroad) but exposed to US judicial powers. Non-compliance with court order to respond may result in contempt of court

UBS Wealth Management

Contact information

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Legal Services UBS WM&BB

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Fax: +41-1-234-6280

www.ubs.com

UBS Wealth Management

Reeves Declaration Exhibit 21

Memo

Privileged and Confidential
client/attorney work

To: Martin Wirz, Legal PB Basel

cc: Hansruedi Schumacher RMM U.S. international clients

From: Markus Affolter, Legal PB New York

Subject: Implications of services/products offered to U.S. clients by Swiss offices of UBS

Date: September 3, 1999

1. Background

The U.S. Securities Exchange Act of 1934 (the "Exchange Act"), and the Investment Advisors Act of 1940 (the "Advisors Act") impose important restrictions and requirements on the activities of a foreign broker and/or investment adviser with regard to customers who are U.S. persons. The provision of services that involve investment advice or brokerage and the means to engage in such activities are core Private Banking activities. Such activities however may trigger broker-dealer and/or investment adviser registration requirements of the above mentioned Acts, a registration which UBS' swiss offices fail to have.

In 1997 under the impact of the Holocaust claims and the pressure upon the Bank in the U.S. oldSBC considered various possibilities of reorganizing its global Private Banking activities insofar as those activities may affect U.S. persons with the aim of insuring full compliance with the applicable U.S. legal and regulatory requirements.

As a consequence of these profound considerations it became clear that to best meet the legal and regulatory requirements, the establishment of a U.S. based Limited Purpose Trust Company (LPTC) chartered under the New York State law would be a favorable solution. This subsidiary then had to register with the Securities and Exchange Commission (SEC) under the Exchange Act and the Advisors Act. The LPTC then would open a branch office in Switzerland and the U.S. customers of UBS in Switzerland would then be transferred to this Swiss Branch(es) of the Trust company. Furthermore, any new client relationships with U.S. customers would be established at this LPTC branch.

It's obvious that this solution would result in an organizational structure in Private Banking that operationally would be far from the most convenient. Furthermore private clients might not like to become customers of the Swiss branches of a U.S. Trust Company. In 1997 the Management decided to refrain from restructuring the PB business with U.S. resident clients as outlined above.

GOVERNMENT EXHIBIT 21

As a follow-up to this decision, this memo outlines the legal and regulatory risks of the present structure in UBS Private Banking, where different services are provided and many products are offered to U.S. clients through the Swiss offices of UBS. We further propose measures to reduce such risks. However it's important to note that if the Bank maintains its present organizational structure in serving U.S. clients in Switzerland these risk cannot totally be avoided.

2. Risk assessment of business transactions which trigger registration requirements

2.1. Brokerage

The SEC uses a territorial approach in applying the broker-dealer registration requirements to the international operations of broker-dealers. Under this approach all persons physically operating within the U.S. that effect, induce, or attempt to induce any securities transactions are required to register as broker-dealers with the SEC.

Nevertheless, the SEC also believes that registration should not be required when a foreign broker-dealer operating from outside the United States effects an unsolicited trade for an U.S. investor, if the investor has from within the U.S. sought out the foreign broker-dealer and initiated transactions in foreign securities markets entirely on his own request, without any type of solicitation by the broker-dealer in the U.S.. Thus the issue of solicitation is seminal to the question of whether a foreign broker-dealer must register under the Exchange Act. Recent rulings and other comments of the SEC suggest that the agency has moved toward a territorial approach to market regulation in which it recognises that when investors chose their markets, they would also choose the regulatory structure of those markets. On the other hand if a person is solicited in the U.S. the SEC believes that such a person could easily and rationally believe that the person was protected by the U.S. securities laws.

The key to the issue of solicitation is whether a foreign broker-dealer's activities in the United States may reasonably be viewed by the SEC as attempting to induce an investor's purchase or sale of a security. Solicitation includes efforts to induce a single transaction or to develop an ongoing business relationship. In the SEC's view, the deliberate transmission of information, opinions or recommendations to U.S. individual customers/prospects, whether directed at individuals or groups, could result in the conclusion that a foreign broker-dealer is soliciting and must register under the Exchange Act. This includes activities such as advertising in U.S. newspapers, running investment seminars for U.S. investors, publishing quotes of foreign stock prices in the U.S., providing research or advice about foreign securities, telephone calls to prospects or customers or any affirmative effort intended to induce transactional business. It has to be noted that the presence of UBS on the Internet with the overall presentation of services and products and its "UBS Quotes" service as well as publications of the Bank like "Optimus" might by recognized by the SEC as solicitation (See below section 6. and 7.).

Risk assessment: If a foreign broker-dealer failed to register where required, it could be subject to SEC enforcement action under Section 15(a) of the Exchange Act exposing the Bank and its directors to criminal and civil sanctions. Moreover a (permanent) injunction could be imposed against various types of services offered to U.S. clients while the Bank is not

registered with the SEC as broker-dealer where required. The SEC has in fact successfully enforced the Act against foreign broker dealers for unauthorized activity in the U.S. market.

In addition, the Bank potentially is exposed to customers' rescission actions brought under Section 29(b) of the Exchange Act. Moreover purchasers of securities, alleging that the seller was not registered as broker-dealer are even entitled to maintain a class action seeking rescission, or damages if rescission is not possible.

The engaging in impermissible broker-dealer activities in the U.S. furthermore bears a potential reputational risk for the Bank. An enforcement action by the SEC could jeopardize the Bank's ability of doing business in the U.S. or at least damage the Banks reputation and that of its U.S. affiliates with its supervisory authorities.

Preventive measures: (i) To avoid or minimise these legal risks, no solicitation of any kind for brokerage services should take place in the U.S. or to U.S. clients by the Swiss offices of the Bank or on behalf of these offices. (ii) Certain information provided on the Bank's internet sites (in particular UBS Quotes) could lead to the SEC's interpretation that the Bank is soliciting clients for brokerage services. Therefore it might be favourable for the Bank to let U.S. clients which intend to initiate transactions in securities markets through Swiss offices of the Bank sign a **declaration**, which can be part of the account opening documentation, where they represent that they were not solicited trough the internet or by other means for brokerage services.

procedures in the pipeline in place

2.2. Investment Advisory

Pursuant to the Advisers Act, solicitation of business in the United States by an unregistered investment adviser is prohibited. The Act applies to foreign entities including foreign banks which render investment advice to U.S. persons. Investment Adviser is any person who for (direct or indirect) compensation engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who for compensation and as a part of regular business, issues or promulgates analyses or reports concerning securities. This definition includes in the opinion of the SEC the advising of clients or prospects concerning the relative advantages or disadvantages of investing in securities in general as compared to other investments. It is irrelevant whether it is a isolated advice or regular advice as part of a ongoing business relationship. Thus Swiss offices of UBS are legally not permitted to render advisory services to U.S. persons (the distribution of research reports in the U.S. by WDR is possible under certain circumstances).

It should be noted, that in contrast to brokerage services, the issue of solicitation does not have any impact on the registration requirements of investment advisors: There is no such thing as **unsolicited investment advice** and therefore the furnishing of investment advise or dissemination of research is not permissible, even when the U.S. customer had opened the banking relationship in Switzerland on his own initiative. The providing of investment recommendations on a regular basis to U.S clients would be deemed solicitation for future transactions especially brokerage.

D Investment Advice

Risk assessment: If a foreign investment adviser fails to register where required the SEC has broad powers to enforce the Act including civil money penalties. Moreover a (permanent) injunction could be released against various types of services offered to U.S. clients while the

Swiss offices of the Bank are not registered with the SEC as an investment adviser where required. Any wilful violation of the Advisors Act are a crime punishable by fine or imprisonment.

In the last years the SEC has successfully enforced the Act against foreign investment advisers who were conducting investment counseling in the U.S. without being registered as advisor. Such an enforcement action would certainly damage the Bank's (and its U.S. affiliates) reputation with its supervisory authorities in particular when the Bank rendering investment advice with knowledge of the failure of registration.

Preventive measures: To avoid or minimize these legal risks, Swiss offices of the Bank should not render any advisory services to U.S. persons as outlined above. This includes telephone calls to clients or any other affirmative effort intended to initiate transactions in securities. However, when a client contacts the Bank on his own accord to discuss investment issues, his relationship manager is allowed to discuss these issues with the client in a general way, yet avoiding recommendations with respect to specific securities. Subsequently it must be up to the customer, to draw the correct conclusions from the discussion and to make an investment decision.

If the Bank provides information about its advisory services over the Internet measures have to be implemented designed to guard against holding itself out as an investment adviser in the U.S. (see below section 6).

If a publication of the Bank (like Optimus) contains investment advise, then it must include a U.S. persons sales restriction disclaimer and it should not be delivered to U.S. clients (see below section 7).

2.3. Asset Management

A person/entity who manages a portfolio, either of an investment company or of the discretionary accounts of individuals, is by definition of the Advisers Act an advisor required to register. The comments on investment advisory have therefore full validity for asset managers as well. Subject to the registration requirements is the Bank itself, irrespective of the fact, that the investment advise ultimately comes from Brinson Partners, a U.S. licensed advisor.

For **unsolicited asset management mandates** however, the Bank's risks of entering in such contracts are much smaller. The SEC's new territorial approach to market regulation as outlined above could provide a reasonable argument that the Swiss offices of UBS may accept **unsolicited portfolio management** mandates and perform those acts, which are necessary to carry out the obligations under the investment management arrangement where the customer initiates the relationship at such an office. In such a case there would seem to be little likelihood that the SEC would seek to bring an action against UBS, although the Advisers Act would provide a basis therefore. There are however risks involved when subsequent activities (like visits in the U.S. - see below section 5) concerning such accounts take place in the United States.

On the other hand if a person is **solicited** for asset management mandates in the U.S. the SEC believes that such a person could easily and rationally believe that the person was protected by the U.S. securities laws, what therefore triggers the registration requirements.

2.4. Legal Advice

Any kind of legal advice given to U.S. persons on U.S. law matters can only be given by a person who is admitted at the Bar of a U.S. state. This is an important restriction in particular in relation to services rendered by FP & WM.

2.5. Investment Funds

Foreign mutual funds, such as UBS's Swiss and Luxembourg funds, must comply with the U.S. Investment Company act and be registered for distribution in the U.S., Funds which don't have this registration may not be sold to U.S. customers. To avoid a possible reproach of solicitation, Brochures (Fund Guides) may not be delivered to U.S. persons, if they contain information about funds not registered in the U.S..

If a customer intends totally on his own accord to invest in such non U.S. registered funds he has to be informed that investing in these funds will entail considerable disadvantages with regard to interest and taxation. It is important that US citizens only decide to invest in UBS investment funds when they have been fully informed about the possible negative consequences for tax purposes. The information provided to the customer must be placed on record. (see Private Banking Manual)

2.6 Trust Services

Generally speaking the non U.S. offices of the Bank may not service as a corporate trustee of a trust established in the U.S. for U.S. persons.

2.7. Electronic Banking

Electronic Banking services are not available for U.S. clients concerning their accounts in Switzerland.

3. Services that do not trigger any registration requirements

Nevertheless it is important to realize, that certain services offered by banks, including foreign banks, to U.S. individual customers do not involve activities requiring registration under the Exchange Act or the Advisers Act (even without a statutory exclusion or exemption). I will highlight these business possibilities hereinafter.

3.1. Custody

Acting solely as custodian for the assets of U.S. individual customers does not involve activities requiring registration under the Exchange Act or the Advisers Act. For these purposes, a custodian only holds a customer's assets, including securities, in its own or a nominee's name or through a central depository facility, and need not provide securities brokerage services or investment advice to the customer. The custodian settles the customer's securities transactions on the instructions of its customer or the customer's agent

through unaffiliated brokers or dealers selected by the customer or the custodian,[1] insures the safekeeping of the customer's assets and provides periodic reporting to the customer concerning the customer's account ("Custodial Services"). Since Custodial Services do not involve soliciting transactions in securities nor the provision of investment advice, the requirements of the Exchange Act and Advisers Act should not be triggered by the rendering of such services. The Bank should however be extremely careful that in the course of conducting its custody business, it does not inadvertently solicit brokerage transactions or give any investment advice. (The implications of the new withholding-tax regulation in the U.S. is not subject of this memo.)

3.2. Fiduciary deposits

Offerable to U.S. persons without any restriction.

3.3. Payment services

Offerable to U.S. persons without any restriction.

3.4. Banking accounts such as savings accounts

Offerable to U.S. persons without any restriction except Investment Fund accounts and Fiscalinvest accounts.

3.5. UBS Cards

Offerable to U.S. persons without any restriction.

4. Providing Services for clients of non-U.S. Offices by U.S. offices

Providing services for clients of non-U.S. Offices (i.e. Swiss offices) by U.S. offices involve considerable legal risks for the Bank and its clients since such activities deploy on U.S. territory and therefore create there a "jurisdictional hook". They should only be carried out on a limited basis and in line with the regulations in PB Manual 5.7.

Nevertheless we believe, that no major legal risks should be entailed, when U.S. offices provide to prospective clients upon request brochures briefly outlining the U.S. eligible services available. Persons not known by the Bank can be referred to UBS offices in Switzerland but without indicating a specific contact person (RM).

Swiss offices may not accept any new referrals of prospects (who are not already clients in the U.S.) unless the prospect comes to Switzerland to establish a relationship with UBS on his own accord.

[1] If the Bank, as custodian, were to place orders, at the request of its U.S. customer, with unaffiliated foreign brokers, and charge only normal transaction costs for such service rather than a fee that approximates a broker's commission or a dealer mark-up, that the Bank should not be required to register with the SEC as a broker or investment adviser. While it might be possible for the Bank as custodian to place orders through affiliated brokers on infrequent occasions, execution through affiliated brokers might be viewed by the SEC as the offering to U.S. persons of an integrated brokerage/custody service by the Bank.

If a customer already has a relationship with an U.S. office of the Bank, he may be referred to a specific contact person in Switzerland. Also U.S. offices may provide such clients the blank documents for the opening of accounts in Switzerland.

U.S offices would not however assist a prospect in completing the account opening documentation, guaranteeing signatures, forwarding account opening forms and making deposits to Switzerland or any other assistance in opening an account relationship. Further there shall be no contact with clients on behalf of their Switzerland booked accounts in any UBS U.S. offices, no support to such clients by any employee of U.S. Private Banking and no documents shall be sent to the U.S. to be given to clients or prospects by any UBS employee.

Concerning accounts/relationships with subsidiary banks of UBS no referrals or services of any kind may take place.

5. **Visits to the U.S. by Swiss Relationship Managers**

Visits by Swiss representatives of the Bank to the United States a[redacted]
as a representative of the Bank could bring to a customer resident in the U.S. account statements concerning a custody account which is managed only on the instructions of the customer, since pure custody is a service that can legally be provided by Swiss offices of the Bank to U.S. clients.

On the other hand, when the Swiss officer includes with such account statements any oral comments or written materials that could be considered as investment advice or any advertising materials concerning the Banks ability as a broker or dealer, such visiting activity then would immediately trigger registration requirements.

As shown above, Swiss offices of UBS may accept unsolicited portfolio management mandates (where the customer on his own initiates such a relationship at a Swiss office) and perform those acts, which are necessary to carry out the obligations under these contracts. This approach however can not be an argument for the Bank, that if the provision of such services is permissible, it should also be permissible that a representative of the Bank provides the customer on the occasion of a visit with the reporting and personally gives him the necessary interpretations and explanations about effected transactions or the management of the assets. Such activity would most probably be, in the SEC's opinion, subject the Bank to the applicable registration requirements with the argument, that such a visiting activity could support the conclusion of the visited client that she/he is protected by U.S. securities laws and/or could give (to third parties) the impression that UBS is engaged in the investment adviser business within the jurisdiction of the U.S...

If the Bank is explicitly requested by the client, to bring statements and reporting documentation into the U.S., the risk of such activity can be minimized (not avoided) if the respective officer acts only as a courier on behalf of the client and avoids giving the client further interpretations to the report.

In general, during visiting activities in the U.S. client advisors must not intend to gain U.S. residents as new clients for Swiss offices of the Bank neither should they try to sell services/products to existing clients, for which solicitation is not allowed in the U.S. Taking into consideration the expansive, fact-specific, and variable nature of the concept of

solicitation, it's simply not possible to avoid the consequence, that any kind of marketing activities might be deemed by the SEC to constitute the conduct of an advisory and/or brokerage business with such persons. Thus, visiting activities should be primarily of a social character and serve the establishment and strengthening of the client/client adviser relationship.

Telephone contact from Switzerland to U.S. based clients are governed by the same principles and should be held to the necessary minimum.

6. Implications of the global Internet appearance of the bank

The purpose of the Internet appearance of the bank is clearly solicitation. The key issue of solicitation is whether a foreign bank's activities in the United States reasonably may be viewed as attempting to induce some kind of business. Since the prospect is presumably reading UBS's webpages at his home in the U.S. there is a link to the U.S. territory. Therefore two key issues are met which may trigger the requirement of registration under the Exchange Act or the Advisers Act: (I) the attempt of the bank to induce business (marketing) and (II) this activity has its effect on U.S. territory.

6.1. U.S. person responds directly to the UBS web sites
(using the UBS Internet Contact/Order Form)

Thus any contact between the Bank and the customer induced through the Internet could lead to an interpretation by the SEC, that the Bank has solicited those clients who respond to the webpages and for this reason must be registered under the Exchange and/or Advisers Act, whenever products or services are to be provided which need such registration. To avoid such consequences the SEC requests financial service providers of precautionary measures to prevent U.S. persons from participating in an offshore Internet offer:

- The web site must include a prominent disclaimer making it clear that the offer is not directed to U.S. persons.
- The Bank has to implement procedures reasonably designed to guard against sales of products or services which need such registration to U.S. persons. For this purpose the Bank must ascertain the senders residence by obtaining such information as mailing address or telephone/fax numbers. The measures must allow the Bank to avoid sending (even by the means of e-mail) or delivering of offering materials, services or products to a person at a U.S. address, or telephone/fax number.
- If a U.S. person responds falsely to residence questions to circumvent the sales restriction in place, the SEC guidance strongly suggests that while they understand that people can lie, they expect us to take remedial action if such a misrepresentation comes to our attention (terminating the relationship or limiting services to those permissible).

A policy has been put in place in July 1999 on how such contacts or requests of U.S. persons (sender's indicated address is in the U.S.) are to be handled correctly and what products/service can be offered to them.

6.2. U.S. person approaches the bank not via Internet

On the other hand many prospects approach the Bank not via the e-mail capability on the web site, they rather communicate with Switzerland using other means like telephone calls, letters, referrals from a local office or even visits at a Swiss office etc.. In these situations the allegation is always possible, that the prospect has been induced to do so by the UBS Internet web sites (at least, there is no evidence of the contrary). The mere Internet appearance of the Bank has therefore the consequence, that any contact of the Bank by a U.S. person could lead to the SEC's interpretation that the Bank has solicited those clients and therefore must meet the registration requirements whenever products or services are to be provided which need such registration.

Therefore the Bank must be able to ensure, that "unsolicited" customer's transactions are not in fact solicited, either directly or indirectly through customers accessing our web sites. In particular, the Bank could obtain as precaution measure an affirmative representation from a potential U.S. client (e.g. Bank form as part of the account opening documentation) that they deem unsolicited and have not previously accessed the Bank's web sites. This will provide some protection to the Bank in the case of an SEC inquiry or in a situation where a customer who becomes dissatisfied with the service attempts to invoke U.S. jurisdiction, or get the U.S. regulators involved, by claiming that they were solicited in the U.S. via the UBS website.

7. Optimus

As outlined above (2.2.) Swiss offices of UBS are legally not permitted to render advisory services to U.S. persons neither directly nor through publications. Therefore the Bank must ensure that publications like Optimus do not contain information which might trigger registration requirements in the U.S.. Optimus must not contain any articles encouraging a reader use of UBS to effect transactions in securities nor should it recommend the purchase or sale of particular securities. Research on specific companies/institutions or analyses or reports with respect to specific securities may not be published.

It has to be noted, that even if Optimus contains only general articles with reflections on broader financial, economic and investment issues, the magazine could still be deemed by the SEC as a "solicitation-tool" and thus its distribution in the U.S. could trigger the risks as outlined above (2.1 and 2.2). However, the likelihood of a SEC inquiry and enforcement is small if Optimus avoids evident solicitation for brokerage and/or investment advisory services does not contain advice or recommendations with respect to specific securities. As an additional measure to reduce the Bank's risks, the magazine should include a sales restriction, which is not limited to Optimus online. Finally Optimus should be used as a marketing tool only for customers, not for prospects.

Since Optimus is part of the Bank's overall activities with regard to U.S. customers it is also a factor that can bring evidence of the (foreign) Bank's activities with regard to U.S. clients.. Therefore the Bank should be careful and selective in distributing the magazine to U.S. clients of its Swiss offices.

Concerning "Optimus-online" I refer to section 4 of this memo.

8. Conclusion

As outlined in this memo, the provision or soliciting the provision of certain services to U.S. persons by Swiss offices of the Bank (in particular brokerage services and investment advise) entail considerable risks for the Bank, because the Bank lacks the necessary license to provide these services. The registration requirements come into play because such activity of the Bank has its effect on U.S. territory and is therefore subject to U.S. jurisdiction.

If the Bank maintains its present organizational structure in serving U.S. clients in Switzerland these risks cannot be avoided. By implementing restrictive procedures in serving U.S. clients, the Bank can however at least dramatically reduce the risk of the SEC becoming aware of the activities of the Bank in the U.S. market. Further, a written policy would, in case of inquiry by a U.S. authority, enable the Bank to evidence the measures taken to comply in good faith with the U.S. jurisdiction and so mitigate its position.

To reach this goal the "jurisdictional hooks" to the U.S. must be reduced to a possible minimum. Therefore the following fundamental principles should govern the serving of U.S. clients by Swiss offices of the Bank:

- The Bank's business conduct shall be governed by the principle, that U.S. clients are booked and served by U.S. domestic offices of the Bank. If a U.S. person chooses intentionally and entirely on his own accord the foreign market, the Bank will not prevent him/her from opening an account in a non-U.S. office.
- Swiss offices of the Bank should not actively solicit new U.S. clients and should be cautious and discreet in serving existing U.S. clients. U.S. authorities should not gain the impression that foreign offices of the Bank are actively marketing brokerage or investment advisory services in the U.S.
- No solicitation of any kind for brokerage or investment advisory services should take place in the U.S. or of U.S. clients by the Swiss offices of the Bank or on behalf of these offices. The provision of investment recommendations on a regular basis to U.S. clients should be avoided.
- The establishment of a new Swiss relationship with a U.S. customer should take place entirely on the initiative and accord of the client and not as a consequence of solicitation of the Bank in the U.S.. It must be the prospect who chooses entirely on his own accord the foreign market (and the foreign jurisdiction).
- In serving U.S. clients any (documentary) evidence present in the U.S. of the fact that a U.S. client has an account relationship in Switzerland should be reduced to a minimum, which includes such measures like retained mail, minimal telephone calls to clients and minimal visiting activities.
- Visiting activities of Swiss relationship managers in the U.S. should be kept to a minimum. If such visits are inevitable, they should not seek to gain U.S. residents as new clients for Swiss offices of the Bank neither should they include any attempt to sell services/products for which solicitation is not allowed in the U.S. to existing clients. Visiting activities should be primarily of a social character and serve the establishment and strengthening of the client/client adviser relationship.

- Since the purpose of the Internet appearance of the Bank is solicitation, the Bank has to implement precautionary measures to prevent U.S. persons from participating in an offshore Internet offer. Simple sales restrictions are not sufficient. Such measures must enable the Bank to represent (in the case of an SEC inquiry) that it is not targeting prospects in the U.S.

- To reduce the risk that Optimus is deemed by the SEC as a "solicitation-tool" and thus its distribution in the U.S. triggers registration requirements, the magazine should avoid evident solicitation for brokerage and/or investment advisory services nor should it contain advice or recommendations with respect to specific or research on specific companies/institutions.

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Reeves Declaration Exhibit 22

UBS

Private Banking Americas International

Evaluation of business strategies for U.S. clients (W-9)

Zurich, September 27, 2002

Strictly Confidential

Version 3.2

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GOVERNMENT EXHIBIT 22

Table of Contents

[redacted]

Introduction

The situation for financial service providers for U.S. persons[1] has significantly changed in recent times. It has started with the QI regulation and has continued with deemed sales rules, all of which has led to a series of actions at UBS and its competitors[2]. The implementation of the QI, and deemed sales rules specifically has resulted in a differentiated treatment of W-9 and non-W-9 clients on the side of UBS AG.[3] Formerly they were dealt with the same approach. With the deemed sales rules put in place, clients were asked to be part of one of two possible segments, W-9 or non-W-9. Following this formal separation, UBS has now to decide on its service approach to W-9 clients[4].

In this document we analyse the situation, discuss strategic aspects and make recommendations to support the decision process of the BC, LSC, WMBB board and finally the GEB[5]. Although this document is written by Americas Intl., we are taking a neutral position, not considering the natural interest of Americas' employees and management to "continue business as is".

UBS' position

As soon as UBS deals with W-9 clients one has to discuss the fact that UBS AG parent bank is not a U.S. licensed company. In the many decades UBS AG has been serving U.S. clients this issue has not surfaced as UBS did not file with the IRS and has therefore not had any direct relationship to any U.S. official body.

Discussion points are now:

- Based on the deemed sales rulings, U.S. clients are not permitted to give instructions to UBS AG from the U.S. unless all sales proceeds (incl. those emanating from intl. security holdings) are reported to the IRS by the QI (which UBS is)[6]. This means only U.S. clients filing a W-9 form can in practice give instructions to UBS from the U.S. as long as sales proceeds are reported to the IRS. To cater for the deemed sales rule, non-W-9 clients are now serviced under PM arrangements and U.S.-originated orders from Non-W-9 clients in non-U.S. securities are no longer allowed. W-9 clients are serviced as before. This means:
- W-9 clients have a fully disclosed relationship with UBS AG and are likely to treat UBS AG like any other onshore provider. This in turns has consequences on the legal front as well as on the marketing/servicing side:
- It may become much more relevant that UBS AG is not registered with the SEC, which contradicts SEC rulings. Further, the service provision out of Switzerland is not orientated towards U.S. rules and customs, i.e. service provision is not always compliant, nor (tax-) efficient for U.S. clients under a fully disclosed relationship. This in turn means:
- We have to discuss the overall structure out of which U.S. clients are served as well as the product/service contents to U.S. clients. Both has to change to (1) comply and (2) have a service provision in place that is up to the standards of UBS, i.e. meets the high expectations of our clients and allows UBS to actively market its services in the U.S..

Risk assessment

As mentioned above there is an increased chance that UBS AG is treated like any other U.S. provider, which means that there is higher litigation risk. Not only that, the potential impact of litigation has increased. This is as UBS AG's exposure in the U.S. has gained in size over the last few years, underlined by the acquisition of PaineWebber. This means: UBS perhaps in contrast to other Swiss players, has to care about U.S. regulations.

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[1] U.S. persons are defined as U.S. citizens world-wide and resident aliens e.g. greencard holders or persons with a substantial physical presence in the U.S.

[2] At this point we refer to cross-border services provided to U.S. clients from non-U.S. firms

[3] W-9 clients are U.S. persons for whom UBS files a 1099 form with IRS; for non-W-9 clients UBS applies back up withholding tax (BUW), their identity is not disclosed to the IRS by UBS.

[4] Presently UBS has xyc W-9 clients on record (excluding UBS PaineWebber) with assets of CHF xyc

[5] The WMBB board has mandated Americas Intl. at May 28, 2002 to develop a business model to serve for W-9 clients in order to attain SEC and IRS compliance.

[6] For domestic securities 1099 reporting has to be done (or back up tax withheld) for all clients incl. PM clients

If one agrees with above assessment (i.e. doing nothing is not considered an option) it follows that the service model has to change. There are only two general directions possible. (1) Eliminate risk by proposing clients to transfer to "compliant" entities or terminate relationship with UBS. This means, we ask clients to transfer to UBS PaineWebber in the U.S.[7]. (2) Establish "compliant" environment in Switzerland (and possibly other places such as Singapore for Asian clients).

Client motivation

Without going into details here, (2) is proposed as a general direction. We argue that this strategy overall has a better risk-return profile than (1). Proposing a transfer to UBS PaineWebber would lead most likely in many cases to termination of the relationship with UBS, as clients would search for alternatives in Switzerland or put their assets with their U.S. broker which may not be UBS PaineWebber. It should be emphasised that clients have chosen UBS in Switzerland for particular reasons: each client may be characterised by a specific set of motivations, but it should be noted that UBS in Switzerland is an attractive partner for two reasons, it is UBS and it is in Switzerland. Tax was and perhaps still is one motivation, asset protection is another one, both reasons become less relevant in a fully disclosed relationship; asset protection, however, remains a valid argument as NewCo is an incorporated company in Switzerland. Additional arguments are certainly: tradition, confidentiality/asset protection, Swiss style banking and trust. International diversification in general, as well as products and services in particular are important, however, we do not think that these are the key drivers.

Strategic considerations

At first sight the set-up of a compliant entity in Switzerland ads costs and does not generate substantial additional revenues as of day one. However, this is only half of the story, as not only W-9 but also non-W-9 client population has to be considered in this decision. A SEC compliant entity becomes the back-up structure for non W-9 clients in the future. In addition, although the market with U.S. clients in Switzerland is arguably not gigantic in size (i.e. can be considered as a niche market)[8], it is likely to grow, especially due to the changed political global situation. We should keep in mind that the on-shore U.S. market is by far the biggest worldwide and that UBS (PaineWebber) has a strong market position (referral potential), i.e. we propose to position Switzerland as the "Centre of Competence" for U.S. clients outside the U.S.. The purpose of this Centre is twofold: help to retain existing client relationships and allow competitive and active marketing (acquisition) of UBS to U.S. clients outside the U.S..

Suggested option

Many alternative structures of a "Swiss Competence Centre" were discussed during the analysis stage of this project. Our thoughts and recommendations are as follows:

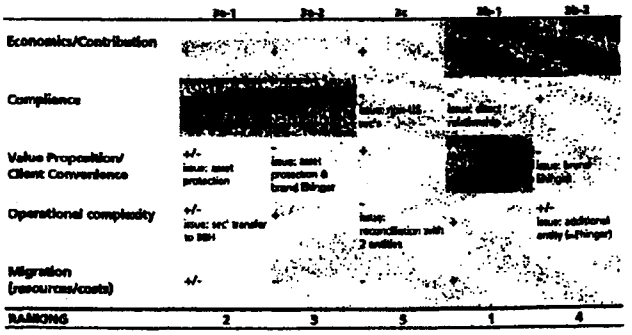
A separate legal entity (in this paper referred to as NewCo) should be either established or used to serve W-9 clients out of Switzerland. NewCo would be a subsidiary of UBS AG, be registered with EBK as an "Effektenhändler" and in the U.S. as an SEC registered "Investment Advisor" (IA). Out of NewCo, W-9 clients can actively be serviced in an SEC compliant fashion. On the products and services side the emphasis will be on "European or Swiss based investment services", i.e. discretionary and non-discretionary advise services. Clearly the new entity should not and cannot operate as a Swiss UBS PaineWebber. The objective is in a nutshell, to provide UBS prospects and existing UBS W-9 clients with the opportunity to have their assets actively managed in Switzerland by skilled and experienced staff with a Swiss background in a fully compliant structure.

The following five alternatives of NewCo are considered (see chapter 7).

- 3a.1 NewCo (SEC IA[9] and custodian) with U.S. global sub-custodian
- 3a.2 NewCo (SEC IA and custodian) = branch of Bank Ehinger with U.S. primary global custodian
- 3c NewCo (SEC IA and custodian) with U.S. securities held with U.S. custodian and non-U.S. securities held with UBS AG
- 3b.1 NewCo (SEC IA w/o custody) = EAM of UBS AG
- 3b.2 NewCo (SEC IA w/o custody) = EAM of Bank Ehinger

[7] UBSIA we do not consider here, as they have not fully established their operation.
[8] Current size is CHF XYC (Strategic Analysis and Bus. Development/BCG)
[9] SEC IA: SEC registered Investment Adviser

The following table provides an overview of our assessment:



All options have their specific pro/con-profile. The main key evaluation aspects are compliance, client appeal, costs, operational complexity, and migration aspects.

Speaking from a BU Americas perspective, 3b would be the preferred solution as the most compelling solution for our clients.

[redacted]

2.1.1 Securities Exchange Act / Investment Advisers Act

U.S. regulation on the provision of financial services (securities brokerage, investment advice and asset management) is comprehensive. In addition to SEC registration requirements, financial services firms are subject to significant compliance, disclosure and operational requirements.

Given the types of activities conducted by UBS AG and its affiliates on behalf of U.S. W-9 customers the following definitions and regulations are relevant:

Securities Exchange Act

- The Securities Exchange Act of 1934 makes it unlawful for any broker (defined as "any person engaged in the business of effecting transactions in securities for the account of others") or dealer (defined as "any person engaged in the business of buying and selling securities for his own account") to make use of the "mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security unless such broker or dealer is registered" with the SEC.

Investment Advisers Act

- The Investment Advisers Act of 1940 defines an "investment adviser" as "any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities." It is unlawful for "any investment adviser, unless registered [with the SEC] to make use of the mails or any means or instrumentality of interstate commerce in connection with its business as an investment adviser."

Conclusion/Risks of Status Quo

From this follows that SEC registration would be required if UBS continues to actively service its W-9 client segment.[10] Failure to strict adherence to SEC - rulings subjects UBS to the following types of exposure, all of which are obviously coupled with substantial reputational risks:

- (civil) liability towards a customer who sues an unregistered broker/dealer or investment adviser for any losses he/she incurred on products sold by the unregistered broker-dealer or recommended by the investment adviser
- criminal sanctions if fraud is involved
- regulatory ramifications consisting of enforcement of the pertinent laws plus the levying of fines[11]

2.1.2 Tax - IRS Rules

The U.S. regulatory environment concerning the provision of financial services to U.S. persons has changed significantly during the last year. As of January 1, 2001, the US Internal Revenue Service (IRS) implemented the new U.S. withholding regulations, this was in order to identify U.S. persons investing through non-U.S. financial intermediaries. Following these new regulations UBS AG signed an agreement with the IRS to become a Qualified Intermediary (QI).

QI agreement

A QI must under the QI-Agreement ensure that any clients who are liable to taxation in the

[10] For the sake of completeness, it should be mentioned that SEC-compliance could be improved by either only providing non-securities products to U.S. customers or ring-fencing securities accounts by way of abstaining from the use of U.S. jurisdictional means (no communication into the U.S. relative to securities holdings).

[redacted]
Redacted for Privilege

U.S. only hold U.S. securities if they are prepared to disclose their identity to the U.S. paying agent (W-9), and hence the US tax authorities. Each QI is contractually bound to pass relevant information on these U.S.-securities to IRS and client (so called 1099-Reporting). If such clients are not prepared for this disclosure and reporting, they may no longer hold any U.S. securities or are subject to backup withholding tax at 30% (for 2002/2003) on income and proceeds of sale. Presently, 1099 reporting to the IRS is done by BBH for UBS clients, based on detailed break-down information provided by UBS AG via SIS to BBH New York.

Deemed sales rules

The QI-Agreement as well as the backup withholding rules - although poorly drafted and confusing, as well as very difficult to monitor in practice - contain in addition to the basic rules regarding US securities several references to the terms "paid in the Unites States or "to an account maintained in the United States" and "sales effected within the United States" (so called "deemed sales rules"). The deemed sales rules, although not specifically treated in the QI Agreement but based on other US tax regulations, apply where there is

- a U.S. taxable person, resident in the U.S., as account holder and
- investment instructions emanate from the U.S. and/or transaction confirmations are sent to the U.S. and/or sales proceeds are remitted to the US.

Where an individual is involved, the application of this principle means: if a U.S. citizen, Green Card holder, or tax resident is physically present in the U.S. and communicates on investment matters with his client adviser outside of the U.S., the deemed sales rules become applicable. Applying this to trusts, foundations and offshore transparent companies, QI has to identify first whether he has a U.S. person as beneficial owner, for U.S. tax purposes, of the assets and income in the account. If the answer is yes, then QI has to see whether investment instructions are emanating from the U.S. or whether proceeds are being remitted to the U.S..

If non-US securities are deemed to be sold in the U.S. or per instruction out of the U.S., the implications are as follows:

- W-9 customers: QI has to report income and sales proceeds to the IRS including international securities;
- non-W-9 customers: QI has to apply backup withholding at 30% on income and proceeds of sale for U.S. and non-U.S. securities, as well as to provide for 1099 reporting to the IRS on an undisclosed basis.

Conclusion

As of today, UBS is not in a position to provide full IRS (1099) reporting. This is in contradiction to the requirement by W-9 clients who expect full IRS reporting like from any other U.S. firm, covering U.S. as well as international investments[12]. Full IRS reporting includes: dividends, interest income, capital redemption proceeds, and sales proceeds, 1099 OID and 1099 MISC; it does however not include the reporting of capital gains.

[redacted]

U.S. wealth development

According to a recent study by PB Strategic Analysis, the number of U.S. core affluent households (defined as households with more than EUR 500'000 in liquid assets) is expected to grow from 5.8mn in 2002 to 6.6mn in 2005. Along goes an expected growth in core affluent liquid assets from USD 11'792 bn to USD 13'955 bn until 2005 with a compound annual growth rate of 5.8%.

Cross border share

At present U.S. investors have a domestic focus. It is estimated that only 2.5% of total wealth is invested outside of the U.S., this is roughly USD 295bn for 2002. Compared to the rest of the world with off-shore holdings ranging from 8% (Japan) to 36% (Italy). Americans can clearly be considered "under-invested abroad".

The present market size of Switzerland with U.S. clients is approx. USD xyc (or 17% of total U.S. offshore assets), of which USD 9 xyc is estimated to be declared.[13]

This percentage of declared assets is expected to rise as IRS, the U.S. tax authority,

[12] In practice, most U.S. onshore financial providers focus on U.S. securities and as such there is only a limited requirement to cover international securities in the IRS reporting.

[13] All figures are received from PB Strategic Analysis and Group Research

becomes more rigid in their approach with U.S. taxpayers.[14]

Although our PnL calculations are based on a stable offshore share it is likely that the international share of 2.5% will increase due to the following developments:

- U.S. investors have invested more heavily in Europe since the introduction of EURO
- The recent weakening of USD compared to EUR has supported this trend
- After Sep 11, U.S. investors have become more aware of political risks and are more inclined to diversify this risk

This means that the business with W-9 clients become more important in relative and absolute terms.

[redacted]

UBS (booking center Switzerland) has a leading market position in the business with U.S. clients with total assets of CHF xyc (yy W9 + xyc non-W9), which reflects a market share of approx.xyc.[15] As Private Banking business becomes more competitive, this strong position has to be defended carefully. It will be more expensive to regain market share than retain it.

Within UBS WMBB (documented) W9 U.S. clients are currently serviced out of several locations all over Switzerland + 9 international locations:

table xyc

As of July 1, 2002 the UBS WMBB W-9 client population (resident and non-resident in the U.S.) with booking centre Switzerland was distributed as follows

Segment	no. of clients	assets (in CHF mn)	average size (in CHF k)
PB (>1 mn)			
AK2 (250'-1mn)			
AK1 (50'-250')			
BB (< 50')			
TOTAL			

Presently assets of W9-clients are invested as follows: 14%, Bonds 15%, Investment Funds 49%, Fiduciaries 17%, cash 1%, other investments/derivatives 4%, and loans 6%.

Presently there are 34 APS clients with assets of approximately CHF 200mn (6% AMS), and 269 PM clients with CHF 692mn (22% AMS).

An RoA of ca. 68 bp is estimated for 2002 for W-9 clients booked in Switzerland.

[14] There are no public estimates available, however, we see from our clients' behaviour that there is a tendency to use simple assets for consumption or to declare them; there are also lawyers in the market who specialise on voluntary disclosure process. It is difficult to predict timing and speed of the disclosure process; it is possible that the non-W9 business does not shrink at all, could also be that the shift from non-W-9 to W-9 business happens much more rapidly.

[15] Based on the following assumptions: offshore held U.S. wealth 2,5% of total U.S. wealth, thereof share complex xyc (share booking center CH thereof 10%), share simple xyc % (share booking center CH thereof 30%).

[redacted]

[redacted]

PB Americas International aims to remain a first class provider of comprehensive wealth management services for wealthy U.S. clients.

Primary objectives

This in turn means:

- establish a business structure that enables UBS to service existing clients in full compliance with U.S. regulations (SEC and IRS), in order
  - to retain U.S. business
  - to actively market and prospect on U.S. ground
- reduce litigation risk
- tailor products and services to U.S. clients and regulators needs
- contribute to UBS' franchise and net contribution

Secondary objectives

The following are secondary objectives whilst the primary objectives are pursued:

- minimise capital and tax exposure
- minimise regulatory risk for UBS AG, i.e. minimise the likelihood that business of UBS AG – the parent bank – is exposed to regulatory oversight from U.S. regulators
- minimise disruption for clients (minimise implementation risk)

[redacted]

On May 28, 2002, the WMBB board (EB CH) mandated PB Americas International to evaluate options for servicing W-9 clients, if possible in an SEC and IRS compliant manner.

Introduction

The basic elements of a strategic discussion are:

1. The regulatory environment has changed/tightened.
2. UBS AG has significant exposure in the U.S., i.e. after the acquisition of PaineWebber (the impact of UBS being non-compliant with U.S. regulations has potentially severe consequences for our operations in the U.S.).
3. UBS AG has a sizeable cross border business with U.S. clients and a strong market position.
4. Currently xyc % of PB Americas Intl. business or Invested Assets of CHF xyc is with non-W-9 clients - although and after strong growth rates in recent months, the share of W-9 is still relatively small; there is, positively speaking, a great chance that this share will increase; from a negative perspective there is a substantial risk that the non-W-9 business is not a sustainable business model in the long run, and that non-W-9 clients have to leave UBS or become W-9 clients. [16]
5. The cross-border market with U.S. customers is relatively small but there is a certain likelihood that it will grow substantially due to changed investment behaviour of U.S. customers:
   - The onshore U.S. market is the largest private client market worldwide - only a slight increase of the off-shore share has tremendous impact on the size of the market overall.
   - We doubt that tax reasons are the main driver for U.S. customers to invest with a Swiss wealth adviser.
   - The recent uncertainty in the aftermath of Sep 11 and the political positioning of the U.S. to attack terror may well lead to increased off-shore investments to diversify political risk.
6. We take the position that Switzerland will remain an important and attractive cross-border market for U.S. customers; reasons for this are: Private Banking culture in Switzerland, long tradition, know how, confidential serving behaviour, international expertise.

[16] Becoming a W-9 client means to go trough a voluntary disclosure process which is guided by a specialised U.S. tax lawyer.

7. In order to meet SEC requirements the current W-9 business booked in Switzerland (PB and AK2) has to be segregated from the non-W-9 business as UBS AG cannot file for SEC registration.

It follows: the U.S. cross-border business is in a critical phase, actually has been for some time already. UBS AG has to decide on its long term approach in this business, what could be seen as a niche market but could become much more than that, i.e. the future for this business might be a fully compliant business that maintains close business relationships with the UBS presence in the U.S. (UBS PaineWebber) and can act as an alternative hub for U.S. customers outside the U.S.. One should also keep in mind that UBS can further improve its perception with U.S. authorities when setting up a fully transparent and compliant "Centre of Competence" in Switzerland.

UBS has basically three options:

1. Do nothing and run risks for being non-compliant (question of UBS' risk attitude).
2. Eliminate Switzerland in the medium term as service provider to U.S. clients (this implies the referral of existing relationships to the U.S. (UBS PaineWebber) or UK (UBS Investment Adviser).
3. Take a proactive approach and invest a one digit mn number to establish Switzerland as a SEC compliant "centre of competence" for U.S. customers.

Below the 3 basic options above (and related options) are discussed considering the following criteria:

- compliance with U.S. and local laws
- compliance with IRS and group tax aspects
- consequences on clients, required changes and migration aspects, client and IRS reporting
- costs and risks of 'changing the bank', costs and risks of 'running the bank'

1. Leave as is

Pros:

- no additional costs
- clients do not have to be migrated (no account opening)

Cons

- risk in relation to SEC compliance
- limited IRS reporting (only U.S. securities)
- no active marketing - use of jurisdictional means prohibited
- no growth

Comments/conclusions:

If taking a risk-averse approach 'leave as is' is not a valid option.

2a. Migrate clients to UBS IA London

Pros:

- existing SEC license can be used
- cost efficient at first sight, as no additional SEC compliant unit has to be established - however, London is an expensive place for banking and is not fully established yet

Cons:

- clients may not be willing to migrate to London - risk of customer losses as London is not a true alternative to Switzerland
- London focuses on discretionary mandates, cash and passive clients
- Switzerland as a U.S. competence centre is given up if the decision is now to scale down the business in Switzerland, it will cost substantially more investments to build it up again later on should the decision be revised
- layoff of advisers in Switzerland - limited career potential for remaining advisers (this may not be a problem in itself, but again, decision cannot easily be reversed - if business is scaled down now, later build-up will be difficult due to negative market sentiments)
- U.K. is still in the process of being set up
- Small operation - currently limited resources to take Swiss clients over
- No IRS reporting tool yet
- London is a costly place for banking
- Access to management (decision takers, know how carrier) and control less easy than if operation is in Switzerland
- looser restrictions with regard to banking secrecy and information exchange.

Comments/conclusions:

We do not believe that the U.K. offers the same quality in terms of alternative booking centre for U.S. clients. Switzerland has its particular attractiveness as 'the capital' of 'Private Banking'. This leads to substantial risk of loosing customers (and staff) which is why this option is not recommended. Further, we give up strategic flexibility if U.S. business is scaled down in Switzerland. It would seem a little bit awkward to migrate 2780 clients to London instead of 36 from London to Switzerland if the European hub were in Switzerland.

2b. Migrate clients to UBS PaineWebber in the U.S.

Pros:

- customers can benefit from truly domestic offering
- cost efficient - no additional SEC unit required

Cons:

- questionable whether customers will agree to transfer to UBS PaineWebber (clients will most likely check alternatives in Switzerland before transferring assets to UBS PaineWebber, clients are with other U.S. brokers and hence are likely to transfer their assets to this broker and not to UBS PaineWebber)
- exit of advisers in Switzerland (loss of know-how)
- UBS PaineWebber is a full service broker and as such is not fully comparable to a Swiss based unit
- less profitable as UBS PaineWebber operates at a higher C/I ratio

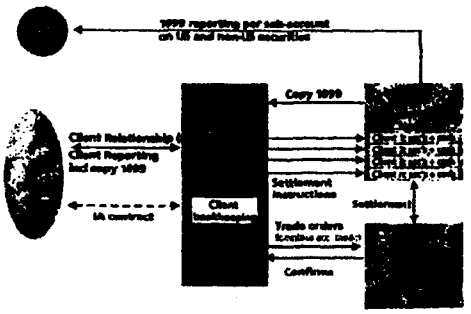
Comments/conclusions:

Transferring all clients to UBS PaineWebber is appealing as it uses UBS' infrastructure and UBS PaineWebber is without a doubt a first class brokerage house. At the same time, this will be demanding to existing clients. In addition it limits the clients' options to use UBS for cross border business. There is the risk to loose share of wallet, not only now, but also in the future, when synergies between UBS AG and UBS PaineWebber could further develop.

3a. NewCo Investment Adviser with custody - U.S. house will act as global custodian

This option is explained in more detail in the next chapter. In short, this option considers a separate legal entity in Switzerland as a subsidiary of UBS AG, registered as an SEC Investment Adviser with custody and an Effektenhändler (or bank) with EBK.

NewCo could either be a "new company" (option 3a.1) - or a Private Label Bank could be used ([redacted] - option 3a.2). NewCo would work with a U.S. custodian as for global custody.[17]



Pros:

- it offers current UBS AG clients to benefit from UBS services in a fully compliant

[17] There are two operational options for 3a. 1) U.S. custodian would operate in an omnibus account mode requiring NewCo to be a QI "with" and to provide 1099 reporting directly to the IRS; 2) U.S. custodian would operate in sub-account mode which permits NewCo to go without QI "with" and to delegate 1099 reporting to the U.S. custodian.

environment
- enables UBS via NewCo to market actively in the U.S. - use of jurisdictional means is permitted
- the establishment of NewCo can have a positive impact on the relation of UBS with U.S. authorities (goes beyond IRS and SEC)
- this strategy has features of a call option:
  - can serve as back-up for non-W-9 business (assets of CHF 16bn) - retention of non-W-9 clients
  - can be the home for U.S. clients if they increase their off-shore share (not for tax reasons!)
  - exploits synergies between UBS PaineWebber and UBS AG - position NewCo as Swiss hub and European "Centre of Competence" for U.S. clients - share of wallet; this also works in return: promote UBS PaineWebber to clients of NewCo

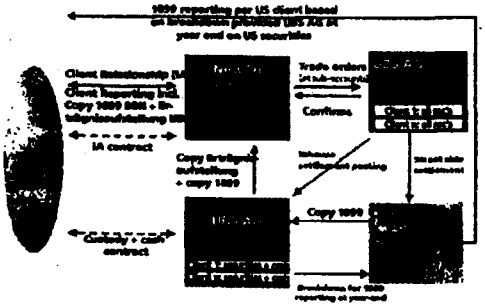
Cons:
- The model needs good marketing and explanation to clients as NewCo has to work with a global U.S. sub-custodian - client might perceive this as dilution of "asset protection". This is more a perception than a real issue as the client contract would be with NewCo.
- requires investment of CHF 8.4mn to establish NewCo
- NPV adjusted pay-back period is 4 years

Comments/conclusions:

Substantial investments and the relatively small size of operation do not support economics, but, we have tried to show a realistic picture and do not forecast exaggerated growth rates, neither on the clients' asset side nor for RoA. The business case should be considered as conservative. Despite unattractive hard economic data, we believe the investments are not that dramatic, taking into account potential developments, such as, 'U.S. engaged in war', 'IRS extending deemed sales rules to Portfolio management accounts', events that either lead to substantial growth of the U.S. cross border market or the decline of the non-W-9 business (switch from non-W-9 to W-9). A more cost effective option would be to establish a W-9 branch of Bank Ehinger as significantly less investments would have to be made. Concerns for Bank Ehinger would be that their existing clients negatively perceive the registration with SEC.

3b. NewCo Investment Adviser without custody

This option is identical to above with the difference that NewCo does not hold custody for clients. The Investment Adviser would merely act as adviser/asset manager (EAM) and the client would have a separate relationship with UBS as custodian (option 3b.1). Here again, a co-operation with Bank Ehinger is an alternative. In option 3b.2, NewCo would be the EAM of Bank Ehinger.



Pros:
- better risk profile than "leave as is" - NewCo is permitted to use U.S. means (active marketing on U.S. ground)
- appealing to clients - argument of asset protection still very valid as clients keep

relation with UBS AG for custodial services. This is, however, not the case in the Ehinger option.
- easier migration - again, not valid in the Ehinger option
- more cost efficient both in terms of up-front investment and running costs
- less stringent SEC supervision for NewCo (as it does not have custody itself)
- lean setup: NewCo operates like an EAM - NewCo needs more limited system capabilities (asset management system, order entry system, accounting system, reporting capability; EAM tools and services can be used (such as AssetLink for instance)
- no registration with EBK needed - however, it is still suggested to apply for an Effektenhändler status with EBK
- as relationship with UBS AG is maintained, other banking products can still be provided (for instance mortgage for clients who are resident in Switzerland)

Cons:
- Redacted for Privilege
- the only potential consequences are for UBS AG in its use of NewCo as agent to help solicit U.S. custodial and brokerage clients: there is a possibility that the SEC could view the entirety of UBS AG's activities as unregistered brokerage activity by US AG.
- Redacted for Privilege
- IRS reporting will be as today: BBH reports to IRS on U.S. securities - i.e. IRS risk is more pronounced as deemed sales rule is not applied as of day one; coverage of international securities is planned for 2005 the latest.
- Customers needs contract with two entities.

Comments/conclusions:

This option is lean: it can be set up very quickly and operates cost efficiently. The downside is that UBS AG is exposed to SEC jurisdiction. Redacted for Privilege

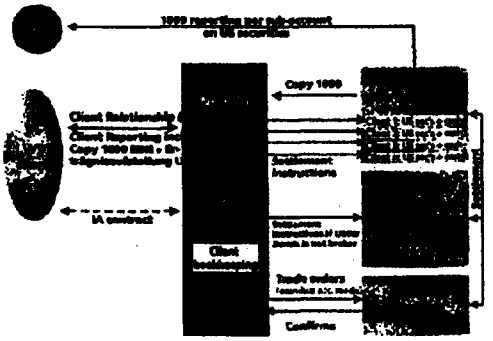
This option has several advantages: it is cost efficient and flexible, does not require to much change on the client side, enables a fully compliant advisory process and it gives us more time to act on the revised SEC custody rules.

3c. NewCo with custody - Non U.S. assets held with UBS AG / U.S. assets held with U.S. custodian

NewCo has custody over clients' assets; NewCo would work with two sub-custodians differentiating between U.S. and non-U.S. securities. The U.S. custodian will provide for IRS reporting which will be limited to U.S. securities.

Pros in comparison to 3a:
- easier sell to clients: regarded by clients as better in terms of asset protection as non-U.S. securities are directly held with Swiss custodian (UBS AG)
- easier migration as there will be no reporting change in relation to IRS reporting – at

the beginning, international holdings are only reported to clients but not to IRS, which is in line with current procedures
- incurs less costs than 3a (only since BBH is not reporting on non-U.S. securities)
- this model is scalable - can be upgraded to 3a at a later stage



Cons:
- deemed sales rules will only be fully followed once international investments are reported to IRS as well
- is not in compliance with proposed (but not finalised) SEC custody rules, hence, this option bears the risk that and update to 3a is required as soon as proposed custody rules are becoming active (it is unknown right now at what point in time this will happen and what the final rules will be)

Comments/conclusions:

3c is a compromise of 3a and 3b in the sense that it shields UBS AG from SEC jurisdiction (better than 3b) and has more marketing appeal than 3a (asset protection). This alternative can be adjusted later to comply with new SEC custody rules. The main concern of option 3c is that it does not comply with proposed SEC custody rules. In case the rules take effect rather soon, this option will be invalid.

3d. Only migrate U.S. business of current clients to UBS PaineWebber

This option addresses the question why a U.S. client should want to be served by a Swiss unit on U.S. securities? Should NewCo concentrate on Swiss and European investments only? Hence, this option suggests to use UBS PaineWebber for U.S. securities and have NewCo managing and advising on non-U.S. securities

Pros:
- clear segregation of responsibilities and service provisions
- cost advantages to client on transactional business and slight cost advantages for UBS for execution

Cons:
- (unnecessary) limitation of service provided by NewCo
- this limitation will not easily be understood by clients
- the cost advantages to UBS are marginal - IRS forms have to be submitted anyway to customers covering European and Swiss securities

Comments/conclusions:

NewCo will not focus on plain transactional services. This is a very competitive business and there is little value for customers using NewCo as a broker for U.S. securities. NewCo is concentrating on managing wealth and is also paid for that, and not for executing transactions. It is evident that a Swiss unit is comparatively strong in advising on European securities and can provide added value in this respect. However, there is little gained if U.S. securities must be held in a separate account, i.e at PaineWebber. The negative impact of such a 'drastic' rule in respect of the perception generated on the client side is not compensated by marginal benefits on the cost side.

Recommendation We recommend to establish a SEC registered unit in Switzerland, mainly for the following reasons:

1. From a strategic perspective there should be alternative booking centres for U.S. clients outside of the U.S. - a Swiss "Centre of competence" offers a real alternative - at the same time we envisage an Asian booking centre for U.S. clients as acceptance of Asian "located" U.S. clients for a Swiss centre is limited (whether it is economically justifiable is not assessed at this point)
2. a separate legal entity is the only way to achieve SEC compliance without having UBS AG under U.S. jurisdiction (the option of using an existing Private Label Bank was debated but not further pursued as the SEC registration of a PLB was viewed to have negative spillover effects to existing PLB clients, this option is being revisited right now for its expected cost savings)

In conclusion, options 3a-c are preferred. Our recommendation would be to go with 3b and upgrade to a long term solution like 3a if deemed necessary at a later stage. Option 3b is very attractive from a cost/time to implement viewpoint and is clearly a step forward compared to the current setup. This option should be regarded as a fast track solution with limited costs. At the same time we have to acknowledge that there are risks attached to option 3b (exposure of UBS to the SEC). Hence, the management has to decide whether comparative advantages of 3b outweigh the risks.

[redacted]

[redacted]

The following is valid for both sub-options 3a and 3c, it is also valid in most aspects for option 3b. The primary focus of NewCo will be the provision of discretionary and non-discretionary asset management services. NewCo will provide a comprehensive, though focused range of financial services to meet the needs of W-9 clients, including custody and "state of the art" client reporting (incl. capital gains).

SEC registration will allow to actively market UBS services into the U.S.. The focus of asset gathering will be on HNWI, however the new unit shall be the home for all existing W-9 clients. The new entity is to be the main "Center of Competence" for U.S. clients outside the U.S. (a second competence centre in Asia should be considered despite low current client number). Besides retaining existing W-9 clients, NewCo will provide the basis for acquisition. It should be emphasised that retention is much more important than acquisition for this business case.[18]

The new entity will operate independent from UBS AG but use UBS AG in many aspects. Efficiencies are sought whenever permitted and useful.

In option 3a, an American firm is used as a global sub-custodian. If BBH is selected, UBS AG will continue to hold the Swiss securities in its present function as BBH's sub-custodian for Swiss securities. UBS Warburg will be mandated as executing broker-dealer.

In option 3c, UBS AG Zurich will act as direct sub-custodian of NewCo for non-U.S. securities. In this scenario international holdings would not be reported to IRS (no change from today), going forward an additional interface is built between UBS AG and BBH and BBH would report to IRS including international holdings.

In option 3b, UBS AG Zurich will act as global custodian of NewCo for all securities. The SEC custody is not applicable as NewCo does not have custody itself.

[redacted]

There is a trend of Swiss players either pulling out of the business with U.S. clients[19] or establishing compliant structures to service W-9 clients. Coutts for instance has a registered office in London to service U.S. clients, whereas Bär has moved their U.S. clients to New York. Listening to the street, we hear that players in general are reluctant to take new U.S. clients on board, due to regulatory complexity, compliance issues, difficult reporting requirements, and concerns of conflicts with U.S. authorities. In general only declared assets are accepted. CS on the other hand has established a separate entity in Switzerland to service W-9 clients [20]. The new entity became operational July 1, 2002.

It can be expected that competitors are further withdrawing from the market in the near future. Most likely CS and depending on the model chosen, UBS, will be dominant players in this segment reaching critical mass to run this business in a profitable manner.

[redacted]

NewCo should be a 100% subsidiary of UBS AG[21] located in Switzerland (Zurich) which will

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[18] In figures: the objective is to retain 80% of the current W-9 assets (= CHF xyc), as well as to retain 50% of Non-W-9 clients who are disclosing their assets and become W-9 clients (= CHFxyc after deduction of 40% cumulated tax and penalty on total assets). In addition, we expect every CA to acquire CHF xyc p.a.. which totals CHF xyc until 2006.

[19] this is due to increasing compliance and regulatory complexities and missing critical mass

[20] CS Private Advisers (CSPA) is a SEC-registered Broker-Dealer & Investment Advisor and registered "Effektenhändler" with EBK

[21] Generally, setting up a branch of an existing unit is always more straightforward, no separate board of directors is necessary, less reporting toward authorities is required, no additional capital is needed. However, such a set-up may trigger authorities, i.e. SEC, to look into the parent in detail. A subsidiary is as a legal entity in its own right more independent, but triggers more reporting duties toward authorities and needs own capital assigned.

be registered with SEC as an Investment Adviser (IA) with custody. An IA will not be permitted to charge for transactions. NewCo will be registered with EBK as an "Effektenhändler". The unit will act as contracting partner (investment advice and custody) to the client. NewCo is suggested to work under the brand of UBS. The W-9 unit of CS markets under the name CSPA – CS Private Advisers.

U.S. perspective

From a U.S. perspective, the leanest possible set up – also cost-wise, is to register the new entity with the SEC as an **Investment Advisor providing advice, asset management and custody to clients.**[22]

As SEC-registered investment adviser with custody, the new entity is required to adhere to the restrictions and requirements of the Adviser's Act and the "Custody Rule".

In taking and maintaining custody for client assets an Investment Adviser (IA) will be subject to Rule 206(4)-2 under the IA Act of 1940 establishing requirements regarding the custody of client assets (the "Custody Rule"). Under the current Custody Rule, client funds (cash) must be maintained in a U.S. domiciled and regulated bank in an account segregated from the Adviser's funds. The only requirement with respect to the maintenance of client securities is to maintain them in a safe place. SEC recently has proposed amendments to the Custody Rule. An investment adviser with custody of client assets is to maintain client funds and securities with a qualified custodian. A qualified custodian is defined as a U.S. financial institution, a foreign financial institution that holds custody of assets in its jurisdiction only with respect to securities and funds reasonably necessary to effect transactions in securities in that jurisdiction. An IA or custodian located in Switzerland could therefore only be a custodian for Swiss securities and cash necessary for trades in Switzerland. An IA that holds assets in multiple jurisdictions would therefore be required to work with a U.S. primary custodian or to work with a qualified custodian in each jurisdiction.

The segregation of W-9 clients should ensure that UBS AG does not fall under the jurisdiction of SEC. It is crucial in this respect that only NewCo "knows" the client (access to client data e.g. name, address) and to refrain from a direct relationship between UBS AG and the client.

It is proposed that NewCo obtains its own QI status to protect the existing QI umbrella agreement of UBS AG. If IRS Reporting responsibility can be transferred to a "US bank" (see chapter 5) NewCo will register as QI "without"[23]. (In case IRS Reporting responsibility remains with NewCo it will register as QI "with".)

Swiss perspective

From a Swiss regulatory point of view, it will be sufficient if NewCo will be registered with EBK as a **securities dealer ("Effektenhändler")** as this allows NewCo to act as "deposit taking unit" and to provide virtually the entire range of wealth management services/products (except mortgage loans and interest bearing current accounts).

This set-up is from a legal perspective - and also cost-wise - the leanest possible, which still grants complete segregation from the rest of the bank.

[redacted]

- Expertise/Know-How to service U.S. clients incl. product and operational expertise
- Acquisition capacity
- Availability of SEC-compliant products and services
- Reach critical mass in time
- Willingness of clients to move into NewCo

[redacted]

Segments (external view)

The new entity will service high-net worth U.S. persons, who invest internationally and want to (physically) split their wealth across countries e.g. book part of their wealth in Switzerland, to manage currency and political risk and/or seek out higher returns.

Geographically, the main target markets are East Coast: (New York, Boston, Washington),

[22] Registration as broker-dealer was ruled out, as only few advantages (e.g. execution of trades, holding of cash) could be achieved compared to the IA registration, whereas on the cost-side significant additional costs (e.g. capital requirements, implementation time, reporting, examinations etc.) would be generated.

[23] QI with: legal entity with primary 1099 reporting and back-up withholding responsibilities; QI without: legal entity without primary 1099 reporting and back-up withholding responsibilities.

South East: (Miami), Midwest: (Chicago) and the West Coast: (Los Angeles, San Francisco, San Diego)

Client internal segmentation and offering

Clients will be segmented by assets as follows and will be targeted for the different IA products accordingly (X = sales focus)

	Advisory	PM	Custody	Strategy/Goal
AuM < CHF 1 mn	x	X	x	cost efficiency
AuM > CHF 1 mn	x	X	x	grow business/increase RoA
AuM > CHF 5 mn	X	x	x	grow business/build relationships

By servicing the existing W-9 client base and approaching prospects in a focused manner, NewCo is to grow by 10-15% p.a. through the following acquisition channels:

Acquisition channels

- leverage existing U.S. client base of UBS AG:
  - growth of share of wallet with existing U.S. clients
  - referrals from W-9 and non W-9 clients
- acquisition of new clients in the U.S. directly and via intermediaries
  - close co-operation with UBS PaineWebber to support introduction of clients to NewCo (to increase share of wallet)

In addition to above, there may be substantial growth coming from client switches from non-W-9 to W-9.

Team approach

It is envisaged to have three teams in Zurich, one (team 1) focusing on clients with limited asset potential - and two teams working on large clients and prospects, thereof one team concentrating on the West coast (team 2) and one team concentrating on the East cost (team 3).

Team 1 will be relatively small (2-3 staff) and only service existing (affluent) relationships with AuM < 1 mn.

Team 2 and 3 will service clients with AuM > 1 mn and acquire new clients and therefore consist of advisers skilled in acquisition and servicing.

[redacted]

The primary focus of NewCo will be on discretionary and non-discretionary advisory services, building on the strengths of the UBS Wealth Management approach. Contrary to UBS PaineWebber, NewCo is not a broker-dealer and has accordingly a different focus, again it is advice, which is also reflected in the fee structure: NewCo will not be permitted to be remunerated on a commission basis but will charge on an asset and product usage basis.

There are three main "programs" available to customers:

- custody
- non discretionary asset management and advisory
- portfolio management

Under the above programs equities, bonds, funds, structured products or derivatives can be held.

From a product viewpoint we will focus on the most important products (see below). The objective is to give U.S. customers an alternative to UBS PaineWebber's domestic service provision.

NewCo's selling proposition will be to provide independent advice out of a Swiss based entity that is governed not only by SEC but also by EBK and hence Swiss confidentiality rules apply. On the product side non-U.S. investments such as EURO and Swiss franc denominated fixed income and security strategies are the focus. In contrast to this UBS PaineWebber is positioned as a traditional U.S. full service brokerage house, whose financial advisers are remunerated on commission basis and have primarily good knowledge on U.S. securities and USD investment strategies.

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4.6.1 SEC/EBK restrictions

The following activities are not allowed or pose difficulties for an IA with custody +

Effektenhändler:

- **Current Accounts (Cash accounts)** cannot be held at NewCo, as an IA is not allowed to hold funds/cash or to have direct access to clients' accounts. (Cash has to be held at a U.S. bank.) Interest bearing accounts are not allowed under EBK rules for Effektenhändler
- **Principal Trades** (that is "buy or sell as principal - including affiliates!). If consent of the client is received before settlement with respect to each individual trade, principal trades are permissible.
- **Mortgage loans** are not permissible to be offered by an "Effektenhändler" (EBK)
- **Trust activities** may trigger state fiduciary licensing laws (tbd)

4.6.2 Products & Services Offering

This chapter provides an overview on the availability of products and services. A product by product analysis was conducted by outside counsel. Further details incl. processes will be worked out during the realisation phase together with outside legal counsel and internal product specialists. Depending on the issuer, distribution channel or buyer different restrictions apply.

Products/Services which will be offered by NewCo (day 1):

- **Advisory services (APS/APA)**

Under SEC APA/APS are considered "non-discretionary" services, as the advisor cannot take any investment decision on behalf the customer. Investment restrictions for non-discretionary mandates are for some products more strict than for discretionary mandates and the recommendations need to be customized accordingly

- **Portfolio management/Investment Advise/Research**

NewCo is required to provide its own Portfolio Management services, to demonstrate its role as independent advisor (meaning, UBS AG cannot provide PM services through NewCo without triggering IA registration). Also, NewCo needs to have its own (branded) investment view. The use of UBS AG research would trigger an SEC registration requirement.

From an efficiency viewpoint it is clearly an objective to use internal research material and not to duplicate internal processes. UBS PaineWebber and UBS-W NY research could be used, however, their scope is more on U.S. securities and non-US securities are covered to a limited extent only. Therefore UBS Research may need to be rebranded (and evtl. re-worded) for distribution to W-9 clients by NewCo. One should keep in mind that most of the research would be for internal use only in any case which will limit additional work in relation to research.

- **Custody**

To comply with the propsed Custody Rule – see chapter 4.3 – the global sub-custodian for securities and cash needs to be a U.S. custodian (such as BBH)

- **Securities**

The following elements are decisive whether a security can be offered:
- U.S. vs non U.S. issuer
- primary / secondary
- the way it is marketed: private placement, public offering
- discretionary/non-discretionary

U.S. government securities and commercial paper are exempt and hence can be offered without any restrictions.

U.S. securities, both in the primary and secondary market are generally permissible; private placements are only allowed for accredited investors and resale is restricted.

Non-U.S. securities - offshore primary offerings: allowed for discretionary accounts only as long as marketing efforts are limited. Private placements are only allowed for accredited investors and resale is restricted.

Non-U.S. securities - transactions in the secondary markets: allowed provided there is no extensive marketing in the U.S.

Securities/secondary market: seller has to be different from issuer, underwriter or dealer (to be checked in detail for new structure, as UBS-W will be B/D)

- **Certificate of deposits**

U.S. bank issued CD's are permissible without any restrictions. (Active marketing of CD's requires a licensed banking presence, which UBS has in most States.)

- **Structured products**

Each structured product has to be analysed individually. Structured products have to be decomposed to assess their underlying nature. Based on this it is possible to determine under what jurisdiction the product falls. Most of the existing UBS structured products are defined as securities. For securities the following options exist:

- the product is issued in Switzerland and traded at SWX or at another exchange. W9 clients can purchase from NewCo and sell to NewCo. A registration statement would not be necessary.
- offer it in a private placement, this option is more costly due to the required registration and documentation
- SEC registration: this is option is not recommended, due to cost and time involved and - even more important - SEC registration would pose SEC-jurisdiction over the issuer of the product!

In the short term we only recommend structured products that are also distributed by UBS PaineWebber, i.e. that are already SEC registered. This is also for tax reasons.

- **Pooled investment vehicles**

U.S. based pooled investment vehicles (SEC registered) can generally be offered to U.S. clients if they are registered in Switzerland as well.

Non-U.S. domiciled funds (e.g. Lux) cannot be offered by NewCo. From a SEC viewpoint it would be possible to have non-US funds in discretionary accounts but it is not advisable from IRS perspective. This is different for money market funds (which are considered "securities" - see above for restrictions) as they do not pose a tax problem. Again, for SEC compliance reasons MMF are only permissible in discretionary accounts.

Non-U.S. domiciled private funds are allowed in non discretionary accounts if the fund is sold to less than 100 U.S. persons or if all of its U.S. investors are QP's (qualified purchasers: assets >5mn) and the shares are sold in a private placement. In practice this rule is hard to follow which makes it almost an impossibility to offer non-U.S. domiciled private funds.

U.S. domiciled private funds can be offered to discretionary and non-discretionary clients, but sales-restriction (e.g. QP) as for Non-U.S. domiciled private funds apply.

Considering the importance of the product, funds should be available to non-discretionary customers, hence, there are two options: either U.S. based UBS funds are registered in Switzerland or third party funds are chosen.

- **Loans**

Margin loans are permitted without any further restrictions. Non-margin loans are permitted in States where UBS PaineWebber or UBS AG is licensed.

Non purpose loans are governed by the FED Reg X rule. It is the clients' obligation to comply with this rule but the bank is free to follow it.

- **Financial Planning**

Can be provided by an IA without any restrictions.

The following products will not be available as per day 1 of NewCo but might be offered at some later date (depending on general availability and demand):

- **Options and Futures**

NewCo is allowed to provide U.S. traded futures and options if they are traded on a U.S. exchange through a U.S. registered futures commission merchant (FCM). NewCo is not permitted to execute options and futures trades through a non-FCM-registered entity. (Remark: UBS-W NY is an FCM.)

Futures on non-U.S. government debt securities and broad based stock indices are

permissible if they are approved by the CFTC. Foreign government debt products of most of the countries including Switzerland have been approved. Also a large number of index futures and options traded on non U.S. exchanges have been approved incl. EUREX futures.

Non U.S. futures on narrow indices and individual securities are not permitted.

Exchange traded non U.S. options are viewed as securities and can hence be offered with limited restrictions (see securities above).

- **OTC derivatives**

OTC options/swaps/forwards are generally permissible if they are offered by a non-U.S. bank or the customer is an 'eligible contract participant' (either 5mn in assets and investment is risk management purposes, or 10mn of assets) or if they are offered in a offshore private placement.

- **Fiduciaries**

If fiduciaries are considered CDs (offshore primary offering of security) they can only be offered in discretionary accounts (to be confirmed by outside legal counsel).

Fiduciaries are an important short term investment vehicle in Switzerland and currently comprise 12% of W-9 client investments. This product is likely to be categorised as a security and not as a deposit especially if it is in form of a third party fiduciary deposit and hence can be offered.

- **Securities Lending**

To be conducted by the custodian (not the IA). It needs to be determined, if IA could accept a portion of the revenues received by the custodian/lender. (tbd)

- **Internet Banking**

Internet Banking is not planned for cost reasons.[24] The IT-infrastructure needs to be flexible to allow for later implementation.

4.6.3 Tax and Client Reporting

IRS reporting (1099)

In option 3b and 3c only U.S. securities will be covered by 1099 reporting. In option 3a all securities are comprised by the 1099 reporting. In all cases we foresee BBH to provide for IRS reporting on behalf of NewCo. The only exception would be the omnibus setup of 3a, in which case NewCo will report directly to IRS under the status of QI "with".

In order to comply with deemed sales rules, NewCo has to include international securities as well. This means for option 3b and 3c has to plan for an upgrade before the next audit takes place in 2007 for the year 2006. There will be basically three possibilities at that time, either BBH, UBS AG or NewCo could report to the IRS. Reporting via BBH is attractive in the short term, as UBS does not have to build new in-house systems and an intermediary is used to communicate to IRS (i.e. UBS AG itself is not in direct contact with IRS). However, Operations is estimating that it will be more cost-efficient to build own reporting capabilities in the medium to long term. In option 3b, although NewCo has no custody over clients' it is recommended that NewCo provides 1099 forms. Of course it is also an alternative in option 3a and 3c to build in-house capabilities for IRS reporting.

Client reporting

Client reporting will in any case cover international holdings and shall also contain capital gains.

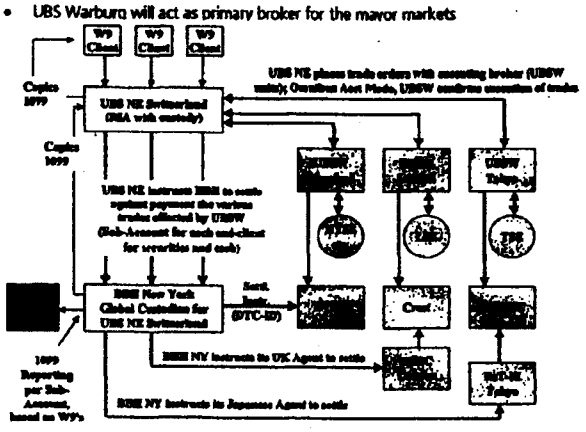
[24] estimated costs for e-tools: CHF 1.2mn

[redacted]

The operations model below is valid for option 3a and to a large extent for option 3b. In these options the new entity will act as advisor/asset manager and custodian to W-9 clients. In order to provide the services described in Chapter 4 and remain as flexible as possible, the new set-up will have to install its own IT platform and have its own operations unit.[25] An IA with custody is required by the U.S. custody rule to hold client cash at a "U.S. bank" and have custody with a qualified custodian. Based on these requirements the following structure is recommended to comply with the proposed "custody rules" (see strategic options 3a):

Sub-account solution

- NewCo will appoint BBH New York (or alternatively Citibank, UBS NY could be used as well) as sub-account (global) custodian for securities and cash, and will delegate the full 1099 reporting to BBH. (NewCo will conduct double-accounting incl. daily (batch-) reconciliation with BBH.)
- NewCo only has to apply for the Status QI "without" as IRS reporting is provided by BBH. As mentioned before IRS reporting capabilities shall be envisaged in the medium term as a more cost-effective solution.
- UBS Warburg will act as primary broker for the mayor markets



Omnibus solution

If BBH cannot accommodate above-mentioned model, an omnibus solution could be pursued. In that case the tax reporting responsibility would lie with NewCo (to be registered as QI "with") and a tax module will have to be implemented based on Olympic. This could be done by the vendor, ERI Bancaire, who would build an interface to the existing Tax Reporting tool "FiTAX" from KPMG. As ERI wants to expand in the U.S. we will get the tax module for a competitive fee. Moreover, UBS will be able to use the module not only in Switzerland but also in London and possibly in the U.S. In case Olympic is chosen as the new system at NY branch. Currently, a detailed analysis of our requirement is

[25] At the beginning of the analysis an outsourcing option was discussed, where the IT infrastructure and operations would have been outsourced to Banco di Lugano (BdL). As significant cost reductions could not be assumed from the analysis, and strategic dependencies, reduced flexibility in the product offering as well as management issues would result, outsourcing was finally ruled out.

undertaken.

The solutions outlined above need to be negotiated with BBH (or Citibank), once the Business Case has been approved.

As mentioned earlier option 3c in which UBS AG would act as direct sub-custodian (again via an omnibus account or via sub-accounts) could be an intermediary solution with the advantage that non-U.S. assets are still directly held by NewCo with UBS AG. This option is easier to communicate to clients and would entail less migration issues on the tax reporting end, as income and sales proceeds on international holdings are not reported to IRS but only to the client. This option would only work as long as the proposed custody rules are not implemented.

[redacted]

The systems which are to be installed shall be a solid platform to and on which the Bank can build on at least in the next 3-4 years.

The Application Architecture would be build in two phases. After the first phase a complete, operational IT platform for the Bank would be available. In this first phase a sub-project will be established targeting to set-up only the initial and minimum technological infrastructure to start-up production of the newly created bank. In a separate project (Phase II), which can be conducted partly in parallel, system components or satellite systems will be implemented that are not priority 1.

The target Application Architecture

It is assumed that the Olympic Banking System from ERI Bancaire will be the core system. Olympic was part of several detailed software evaluations within UBS and is used by UBS. Various key criteria speak for this particular system, so that no further in-depth system comparison with other solutions need to be conducted:

- Common technical platform (IBM AS/400)
- Swiss based provider and broad support infrastructure
- Best references on the market and international presence
- In the meanwhile UBS has built up experience and the market for experienced external resources is good compared to other vendor packages
- Very high functional coverage in terms of Private Banking
- Olympic is used as the strategic banking system for the EWM initiative and synergies might be utilised (e.g. special conditions for future enhancements)

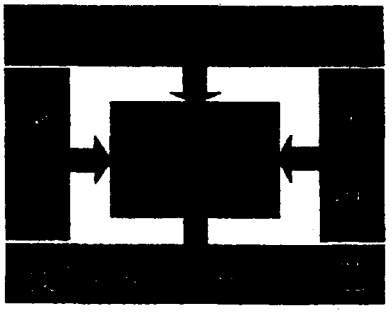
Around the core system various satellite systems will be required, such as price feeds, reconciliation programs, etc. Besides the implementation of Olympic, the project as well includes the implementation of the "must" satellite systems and the technical infrastructure, e.g. the installation of an IBM AS/400 computer.

Various systems are considered to be implemented. Modifications are possible though after the initial detailed IT assessment phase of the project has been completed. The following table describes the purpose of the system components considered:

Olympic	Core banking system from ERI Bancaire
Avenue	CRM, Prospect Management, Intermediary Management
Reuters	Market data (stand-alone)
VSA	Securities standing data and price feed
FIX	Appia FIX Engine and interface to UBSW
SWIFT	SWIFT messaging via central SWIFT hub Zurich
Print Machine	Client output
FITAX	US regulatory reporting
FIRE	CH regulatory reporting

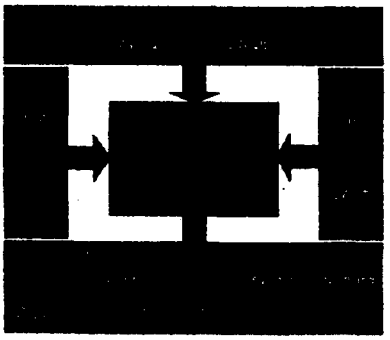
Kasymir	Central Zurich reconciliation system
OnDemand	Archiving system
SAPPHIRE	International UBS data warehouse platform
RCS	International UBS Regional Collateral System
GMIS	UBS Global Management Information System
GEAR/GCR	UBS Global Control & Reporting system
Others	MADIS, KeyTrader, KeyLink, etc.

After Phase I the kernel of the Application Architecture would look as follows:



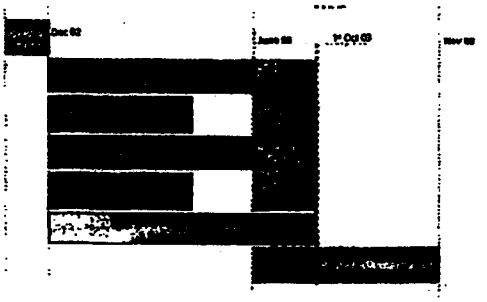
The SAPPHIRE data warehouse platform will merely be used to provide GCR with data.

In Phase II additional components will be added (i.e. Avenue) and reporting components will also be sourced via the SAPPHIRE data warehouse platform:



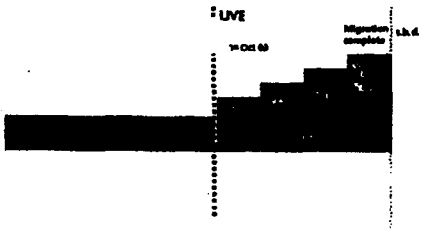
From a timing perspective Phase I of the IT set-up sub-project would take estimated nine months for completion. Phase II, which is not considered business critical, would be

planned in detail after Phase I is completed. The following picture outlines the major task blocks of Phase I:



IT and user training basically takes place during entire project duration, in form of courses, "on the job". A "fresh-up" for end-users should take place before live date.

Migration of client portfolios will not be done in Phase I. Migration will be conducted step by step in Phase II of the IT Set-up Project. The number of steps will be determined in Phase II of the project:

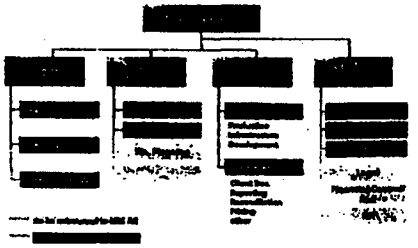


[redacted]

Redacted for Privilege

A separate management structure to comply with regulatory requirements needs to be put in place, at the minimum consisting of a Board of Directors, Head of NewCo, and compliance officer.

In option 3a and 3c it is planned to start with a total of about 27 employees:



The Board of Directors will be staffed with NewCo directors and some UBS AG directors (due to SEC regulation, the majority of directors needs to be independent, so that only a minority of NewCo's BoD may be comprised of directors of UBS AG or any of its affiliates).

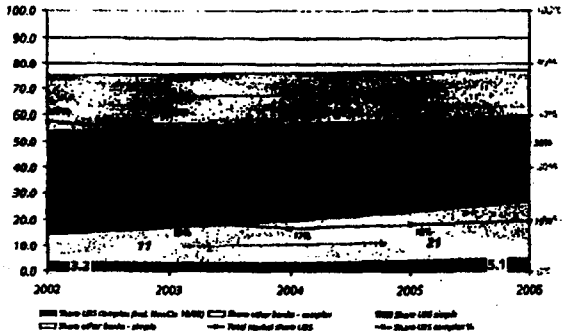
in CHF '000	2002	2003	2004	2005	2006
Revenues	-	1'047	19'380	29'763	38'575
Costs	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
FTE adviser at year end	-	9	15	18	23
FTE other	[illegible]	18	31	31	32
Cost Income ratio	[illegible]	715%	[illegible]	[illegible]	80%

The Core Module (option 3a.1 - NewCo with BBH as global sub-custodian) was calculated based on the following assumptions:

- NewCo is operational on September 30, 2003 (= ready for acquisition) – only clients of transferring advisers will migrate at this point
- step-by-step migration of current W-9 clients from UBS AG to NewCo, with asset transfers being proportionally spread over a period of 9 months starting in October, 2003 (we assume that 80% of current W-9 (booking center CH) clients will consent to be transferred to NewCo) → consequence: gradual build-up of revenues. [Other booking-centers to follow at later stages - depending on overall centralisation project.]
- We have considered asset-growth from the acquisition of NNM of CHF 20 mn by client adviser.
- We have assumed CHF 500 mn p.a. transfers of non-W-9 to W-9.
- Migrated assets will remain at current RoA-levels (68bp); new assets will contribute on average 100bp.
- Project/Investment Costs (total CHF 8.4 mn) will be spread over the years 2002 & 2003. In option 3b.1, IT investments will be reduced by approx. CHF 2.8mn.
- Running costs on a fully loaded basis per headcount (CA/Central functions = CHF 420k, Support CHF 340k, Operations/IT CHF 413k). The cost distribution (%) over categories is based on PBI NAM current figures. In case of partial insourcing of internal logistics services there will result a shift from allocated to direct costs.
- NewCo would have to grow the asset-base by about 75% between 2003 and 2006 in order to keep the UBS market share with U.S. W-9 clients at current levels (-23%). To keep costs low for NewCo in the first years and due to the assumed asset-losses at transfer date, the market share W9 will even drop in the first years, but will start increasing around 2006 (see chart below). [Market development is based on the assumptions of a) constant share of U.S. offshore held wealth at 2.5% and b) an increase in the share of complex money from 40% (2002) to 60% (2006).]

Development W9/non-W9 business in booking center Switzerland

(NewCo starting 10Q2003)

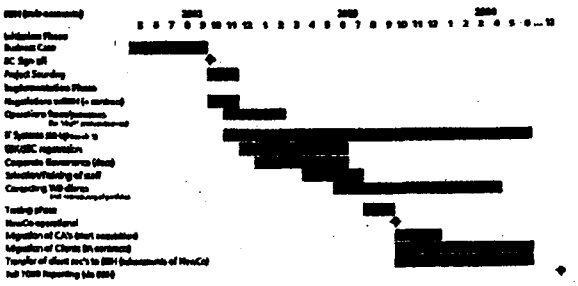


- Minimum capital requirement for an "Effektenhändler" is CHF 1.5 mn (Art 2 BEHV). Furthermore it has to fulfil as well the requirements stated in Art 29 BEHV, as it is not subject to banking law. Art 29 states that the available equity must be at least one fourth of prior years full costs. From this results a capital need + balance sheet coverage for NewCo of ca. CHF 4 mn - including a security margin and loan coverage. The form of this capital (e.g. shares, agio) will have to be discussed further with Group Treasury and taxes.
- Note that the tax impact has not yet been taken into account. Further, the non-financial benefits stemming from this unit relating to reputation risk and avoidance of cost for legal cases cannot be quantified and thus are not reflected in the core module.

The below embedded files show details of core module and NPV scenarios.

[redacted]

The goal is to open doors at October 1, 2003. Major deliverables/tasks of the project phase are:



Client Migration Process

To free UBS AG from the inherent risk issues surrounding the existing W-9 client base, it is planned to migrate all W-9 clients presently at UBS AG to NewCo. Clients will have to sign new contracts with NewCo.

Pre-migration

Before clients are opened at NewCo SEC compliance should be reached at product level, i.e. non-compliant products will be disposed before the transfer (non-US public funds). We have to go through every clients portfolio and decide on appropriate actions together with the client. This will clearly be a time consuming and delicate process as client losses have to minimised.

In conjunction with the "centralisation project", W-9 clients will be assigned to new client advisers at Americas International. We are clearly striving towards assigning these clients to the client adviser who will later join NewCo. Appropriate advisers among current population have to be selected before year end 2002 and involved in the process and setup of the NewCo. If resources are insufficient inhouse, recruiting within UBS or outside UBS has to be done at this point.

Migration

We envisage a phased migration of clients. This will help to keep risks and potential negative impacts at a minimum, does not lead to a situation where operations is stretched too much with migration, and enables involved persons to learn from experience.

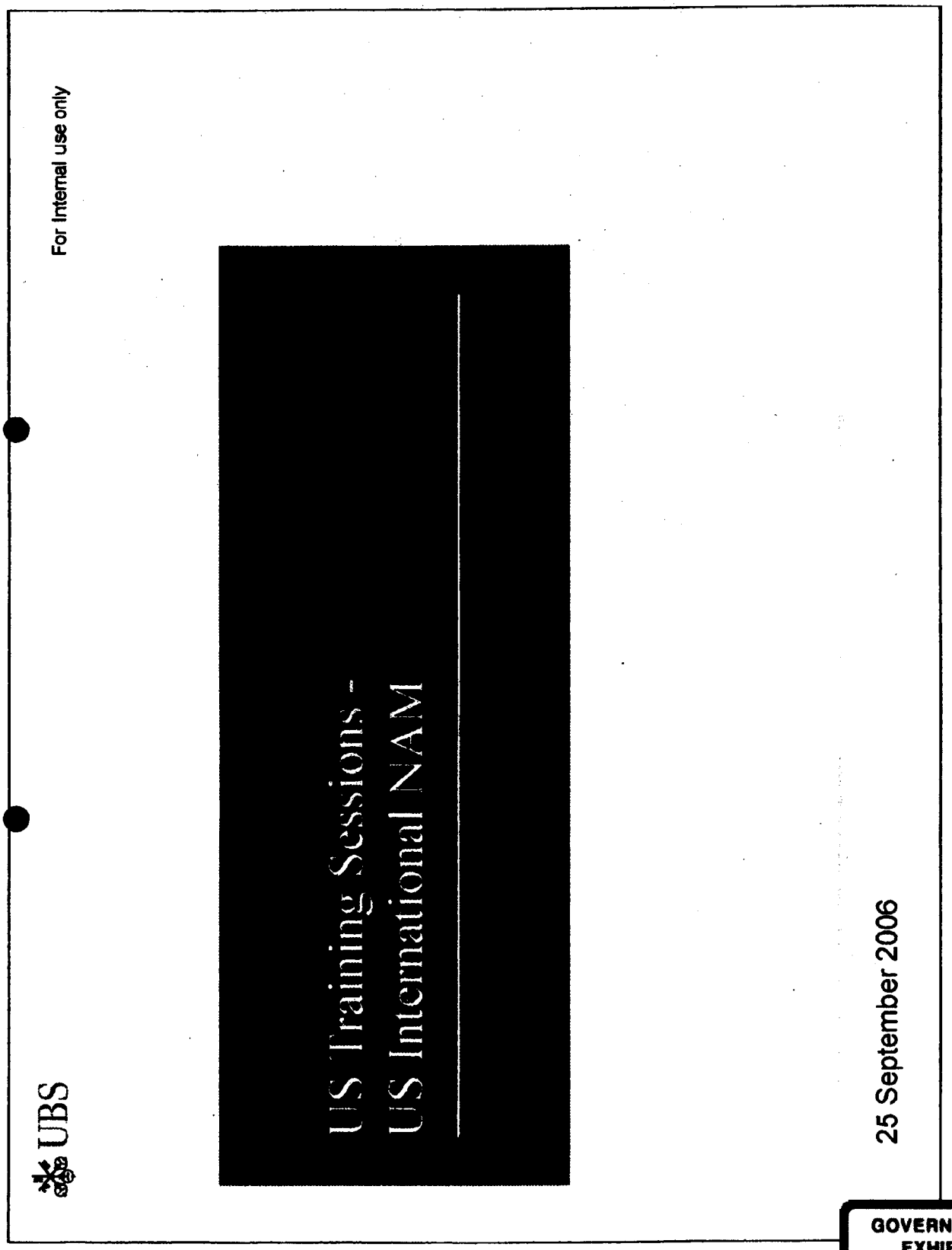
The concept will be to migrate clients together with their client adviser. In the first stage (October 1, 2003), a few advisers will transfer to NewCo together with their clients. These advisers should have free capacities to assign a fair proportion of their time to acquisition activities.

Migration of all W-9 clients inbound Switzerland should be completed mid of 2004.

Resources

	Analysis Phase (08-10/02)	Implementation Phase (11/02-10/03)
Sponsor	Martin Liechti, Michel Guignard	Martin Liechti, Michel Guignard
Project Lead	René Stiefelmeyer	René Stiefelmeyer
Project Management	Sonja Blaser, Thomas Haller	Sonja [illegible] 11/02) Thomas Haller + 1 [illegible] resource tbdd.
Legal/Compliance	Franz Zimmermann	Franz Zimmermann
Tax	Walter von Wyl, Markus Föllmi	Markus Föllmi
Operations	Urs Stähli + 1 full time resource tbd	[illegible]
IT/Systems	Purushotham Manwi, Stefan Frosch, Sigrid Unseld	[illegible]
AAT/PMI	Andreas Aebersold (AAT), Ernst Huber (PMI)	Andreas [illegible] (AAT), [illegible]
Credit	Reto Kunz, Jörg Nothnagel, Elio Keller	Reto Kunz, Jörg Nothnagel
Asset Management	M. Fourage, S. Landau	tbd
Controlling/Finance	Andreas Reber, Thomas Haselbach, Michaela Kotz, Andrew Keller	Thomas Haselbach, Andrew Keller
Client Reporting	Rolf Roetheli, Clarence Chin	Clarence Chin
HR	Jeanette Funk	[illegible]

Reeves Declaration Exhibit 23



GOVERNMENT EXHIBIT
23

Agenda

09:15h - approx. 12:00h

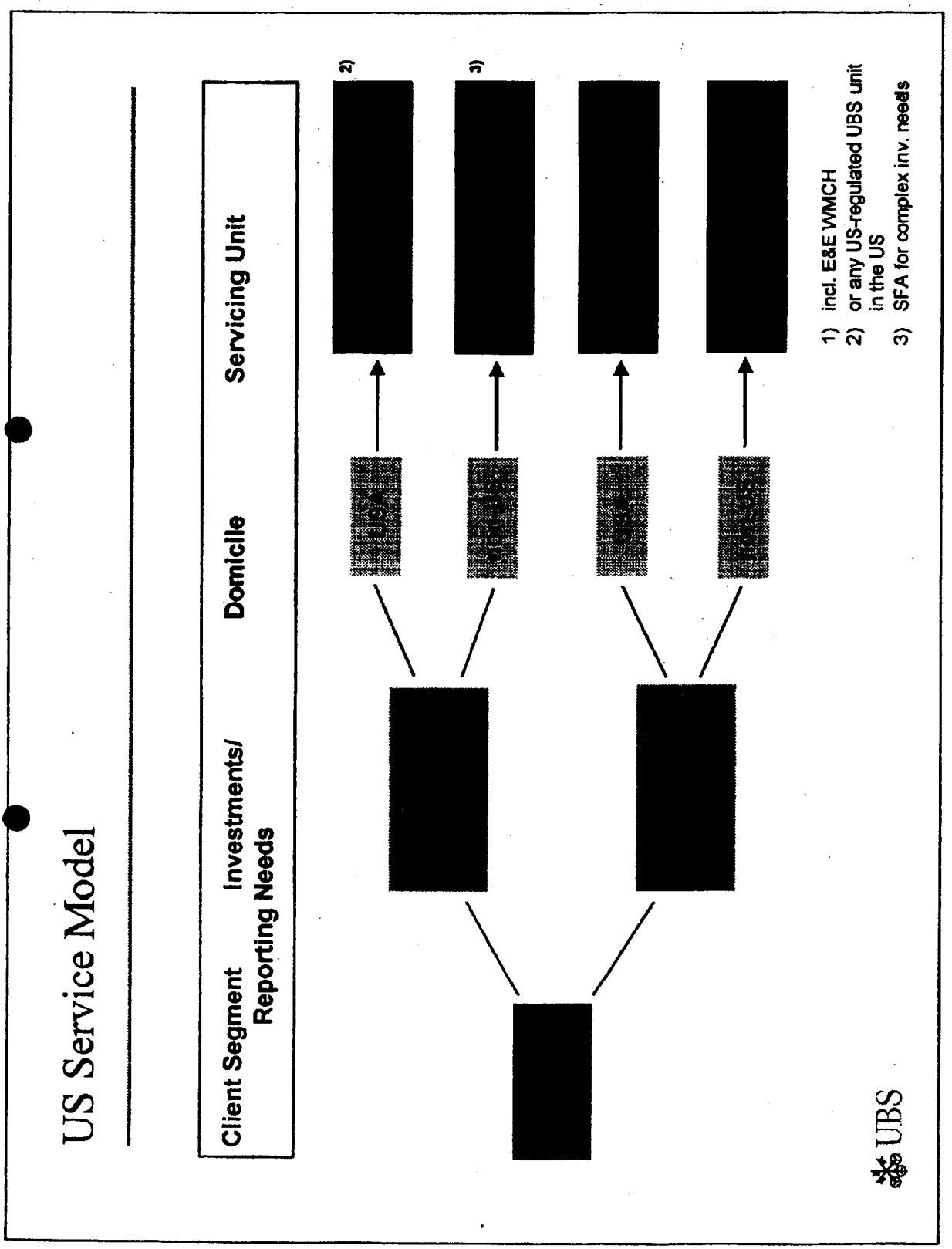
♦ Introduction	Hansjörg Bless, US International
♦ Country Paper USA	Franz Zimmermann, Legal
♦ Impact of Country Paper on Business Model NAM	Hansjörg Bless, US International
♦ Security Aspects	Paul Herger, Security Risk Control
♦ Round table	all

10:30 – 10:45h Break

UBS

Introduction

- Scope of Training Sessions
- US Regulatory environment
- US Service Model
- New Country Paper USA
- Way forward


US Service Model
Client Segment
Investments/ Reporting Needs
Domicile
Servicing Unit
2)
3)
1) incl. E&E WMCH
2) or any US-regulated UBS unit in the US
3) SFA for complex inv. needs
UBS

Country Paper USA

- Purpose of Country Paper ('CP')
- Launch of amended CP targeted in Oct 2006

General Principles

- Travels to meet existing and prospective clients to be kept to a minimum
- Adequate training of Traveling Officers
- Specific approval for business travels required by supervisor
- Travel Plans and certification required from Traveling Officers
- No security-related communications to persons resident in the U.S. This includes in-person communication and communication by mail, telephone, e-mail, facsimile or telex.
- Distributing account opening documents is accepted within defined parameters
- No transport of assets (e.g. cash, checks, etc.) into or out of the U.S.
- Use of Travel notebook essential to safeguard client confidentiality

Country Paper USA

Servicing Existing Clients

- Provision of statements and account information related to banking services is allowed
- In a meeting in the U.S. communication may not be related to securities products or services
- Exception: a security client (non-discr.) inquiring about optimal servicing structures may be informed about a discretionary mandate with UBS

Establishing Relationships with new Clients

- Contacting prospects regarding banking services on an unsolicited basis and discussions on non-security related topics are permitted
- Standard UBS account opening documentation may be distributed to banking services prospects. However, the prospective client must return the forms by mail.

UBS

Impact of Country Paper on Business Model NAM

- Increase ring-fenced discretionary solutions further
- Strict adherence to Country Paper
- General traveling guidelines:
  - KC/HNWI: client retention/ switch to discretionary mandates
  - CORA: switch to discretionary mandates

Way forward

- Development of specific education sessions (e.g. for traveling purposes, for walk-in's, for telephone servicing)
- Future KPIs of US Int'l. business to be revised

UBS

Travel Security

General

- Thorough preparation of trip
- First travel accompanied by senior CA
- Employment of Using Best Practices in CH *and* abroad

Specific

- Explanation of Business Trip: be prepared for arising questions when crossing the border
- Travel habits:
  - Airlines, flight routes need not be altered from a security point of view
  - Strong recommendation to change hotels in rotation
- In case of **emergency (7 x 24h) : Tel. +41-44 234 24 24**
  Security Risk Governance will subsequently co-ordinate the next steps with Legal, Line Management and any other support function

UBS

Travel Security

Specific (cont.)

- Observe Clients' Right to privacy at all times:
  - Always maintain 'Clear Desk Policy' in hotel rooms
  - Use secure infrastructure (Travel notebook, PDA)
  - Be aware that cell phones are prone to eavesdropping
  - Cross borders without client related documents

- Usage of courier and postal services by clients:
  - Regular mail may be used
  - Use courier service if tracking is needed
  - Address must not necessarily show 'UBS'
  - Passport/Id copies should be sent separately

Useful Links

- **US Service Model**
  link to be set-up
- **US Competence Center**
  http://bw.ubs.com/page/0/33/0,1080,4733-236103-1-208103,00.shtml
- **Country Paper USA**
  http://bw.ubs.com/page/0/33/0,1080,4733-236389-1-208104,00.shtml
- **Security Home page**
  http://bw.ubs.com/page/0/36/0,1080,636-128746-1-0,00.shtml
- **Travel Tips & Personal Security Tips**
  http://bw.ubs.com/page/0/36/0,1080,636-128746-1-0,00.shtml
- **Travel Risk Advisor**
  http://bw.ubs.com/page/0/25/0,1080,1625-0-0-0,00.shtml

UBS

Round table

- Comments
- Questions
- Discussion

UBS

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Contacts

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UBS

Reeves Declaration Exhibit 24

From: Veronese, Luca
Sent: Tuesday, October 03, 2006 11:44 AM
To: Blees, Hansjoerg; Eduah, Roland
Cc: Christen, Thomas
Subject: QA travel training session NAM

Dear Hansjoerg and Roland,

Attached you will find a one page QA rough document relating to the US training sessions held in Geneva and Zurich. I have listed questions that Thomas and I have been able to pick up during the discussion. I would like to kindly ask you to add your questions and input to the document and return it me by Friday Oct. 13, 2006.

Thank you and kind regards

Luca

QA travel traning session NAM....

GOVERNMENT EXHIBIT 24

US training Sessions - Questions raised in the meetings (Geneva and Zurich)

- **Can NAM management provide point-of entry per location in the US?** To be discussed, Daniel Perron mentioned in the meeting that this solution is possible.
- **What are the right of a CA once taken into custody?** The CA has the right of us council, but has to be aware of the new regulations in the "patriot act" and the new "anti terrorism laws" where a person can be detained without any explanation.
- **Can the CA refuse to answer to the authorities?** To protect the Swiss banking secrecy act the CA can try not to answer any questions until a council is provided to him/her.
- **What are the consequences for a CA if he/she breaches the Swiss banking secrecy act in the US under interrogation?** To be discussed
- **What can be put on the STAS?** All STAS have to be empty while crossing the border. Suggestion is to have some kind of UBS general presentations to show to the authorities in case PC is checked.
- **Why no printer?** CA should not be able to print out statements in violation with the "deemed sales act". Also handing out statements proves that the CA gave investment instructions on US soil.
- **BVI companies with Inv. Advisor USA?** Open issue
- **Are phones, fax, email taped in the US?** Yes, US government uses various systems to monitor phones, fax, email and all other communications systems. Systems used are the kind of tools like "Echelon". Echelon collects data on a world wide base and filters it with key words from various languages.
- **Can CA discuss security-related MACRO issues?**
- **Is discretionary mandate considered a security?**
- **Opening PM's is a risk the bank is willing to take?**
- **Circumvention possible through companies?** To be discussed
- **Is promoting structured solutions possible?** No, certainly not proactive
- **Can we show a PM model template?** No, because this would represent an investment advice made on US soil, something which goes against US deemed sales.
- **What is ring-fenced?**
- **How does a CA show investment performance on a Business trip?**
- **Debriefing after Business trip?** Yes, it is requested that each CA returning from a B-trip does a detailed debriefing of his/her B-trip.
- **Could a CA meet client at onshore branches?** No.

Reeves Declaration Exhibit 25

UBS

US International Training

26 September 2006

Agenda

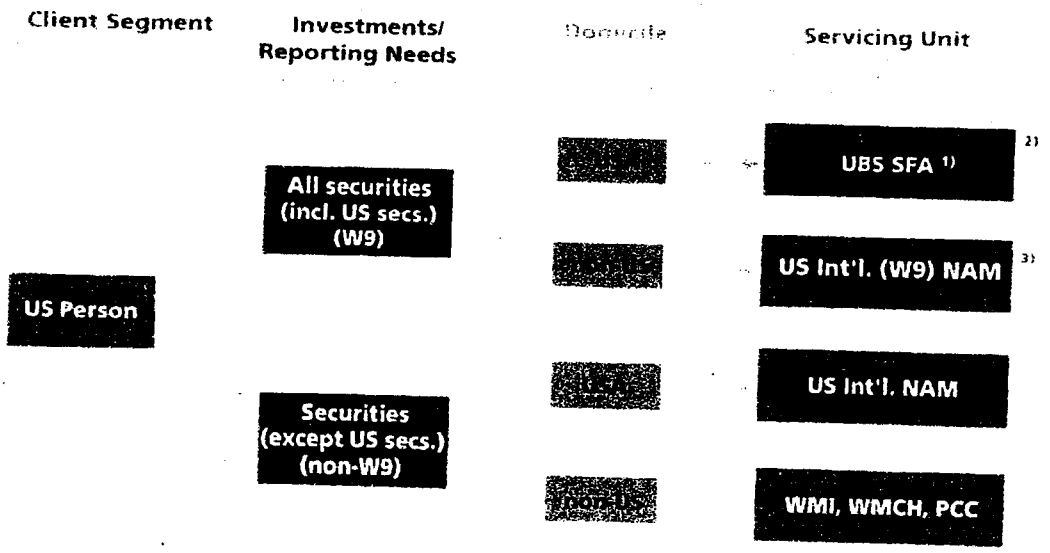
Introduction	Hansjörg Bless, US International
Country Paper USA	Franz Zimmermann, Legal
Impact of Country Paper on Business Model US Intl	Hansjörg Bless, US International
Security Aspects	Paul Herger, Security Risk Control
Round table	all

Introduction

- Scope of Training Sessions
- US Regulatory environment
- US Service Model
- New Country Paper USA
- Way forward

UBS

US Service Model



UBS

Country Paper USA

Purpose of Country Paper ('CP')

Launch of amended CP targeted in Oct 2006

Travels to meet existing and prospective clients to be kept to a minimum

Adequate training of Traveling Officers

Specific approval for business travels required by supervisor

Travel Plans and certification required from Traveling Officers

No security-related communications to persons resident in the U.S. This includes in-person communication and communication by mail, telephone, e-mail, facsimile or telex.

Distributing account opening documents is accepted within defined parameters

No transport of assets (e.g. cash, checks, etc.) into or out of the U.S.

Use of Travel notebook essential to safeguard client confidentiality

UBS

Country Paper USA

Provision of statements and account information related to banking services is allowed

In a meeting in the U.S. communication may not be related to securities products or services

Exception: a security client (non-discr.) inquiring about optimal servicing structures may be informed about a discretionary mandate with UBS

Contacting prospects regarding banking services on an unsolicited basis and discussions on non-security related topics are permitted

Standard UBS account opening documentation may be distributed to banking services prospects. However, the prospective client must return the forms by mail.

UBS

Impact of Country Paper on Business Model US Intl

- Increase ring-fenced discretionary solutions further
- Strict adherence to Country Paper
- General traveling guidelines:
  - HNWI: client retention & referrals / switch to discretionary mandates
  - CORA: referrals / switch to discretionary mandates

- Development of specific education sessions (e.g. for traveling purposes, for walk-in's, for telephone servicing, for referrals)
- Performance measurement with respect to KPI's to be reviewed

UBS

Travel Security

- Thorough preparation of trip
- First travel accompanied by senior CA
- Employment of Using Best Practices

- Reasoning of Business Trip: be prepared for arising questions when crossing the border
- Travel habits:
  - Airlines, flight routes need not be altered from a security point of view
  - Strong recommendation to change hotels in rotation

In case of emergency (7 x 24h) : Tel. +41-44 234 24 24
Security Risk Governance will subsequently co-ordinate the next steps with Legal, Line Management, Family and others

UBS

Travel Security

Observe Clients' Right to privacy at all times:

- Always maintain 'Clear Desk Policy' in hotel rooms
- Use secure infrastructure (Travel notebook, PDA)
- Be aware that cell phones are prone to eavesdropping
- Cross borders without client related documents

Usage of courier and postal services by clients:

- Regular mail may be used
- Use courier service if tracking is needed
- Address must not necessarily show 'UBS'
- Passport/Id copies should be sent separately

Lessons learned

Tel. +41-44 234 24 24

No further calls

In case of an interrogation by any authority;

- protect the banking secrecy
- no client respective communication / wait for assistance of a UBS lawyer

No panic / rush! we are not criminals!

"Yes, I am meeting with clients" (banking products)

Comply with e-mail policy

Traveling - way forward

- "Certification"
  - sign country paper
  - travel security training
- First trip together with a senior
- Written travel plan to be discussed / agreed with line manager prior to business trip
- Empty Travel notebook, no printer, blank forms only
- **NO** handover of asset statements
- Written debriefing / report with line manager
- Regular security training

UBS

Useful Links

US Service Model

US Competence Center

Country Paper USA

Security Home page

Travel Tips & Personal Security Tips

Travel Risk Advisor

Round table

- Comments
- Questions
- Discussion

UBS

Contacts

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UBS

Reeves Declaration Exhibit 26

From: Liechti, Martin
Sent: Wednesday, January 22, 2003 7:31 PM
To: Foellmi, Markus; Guignard, Michel
Subject: FW: IRS Amnesty - action plan for banks

Dear collegues,

Reading Jon's mail, we are right on the money, reading John's mail, I think we need to take the utmost care of this issue, that's why I think we need to be extremely carefull with any written statement on the subject.

regards

ML

-----Original Message-----
From: Bourne, Jonathan
Sent: mercredi, 22. janvier 2003 18:03
To: Chin, Clarence
Cc: Bosman, Aleidus; Foellmi, Markus; La-Barre, Rene; Liechti, Martin; Meyer, Werner; Stutz, Roger; Von-Wyl, Walter
Subject: IRS Amnesty - action plan for banks

Clarence,
I attended one of the B&M working lunches today. They had changed the topic in order to cover the "partial" amnesty, as they call it.

They had a lot of interesting information about the background and the IRS methodology. I have sent you a copy of the slides and 2 articles.

Their main message, however, was what might happen to the promoters of offshore schemes and what the banks affected should now do.

WHAT MIGHT HAPPEN TO THE PROMOTERS
Apparently the whole objective of the amnesty is not to bring money back onshore, but to bring criminal cases against the promoters of offshore solutions that have led to US tax evasion.

Before the IRS will accept an amnesty application, they will want details of financial arrangements - which encompasses not just offshore credit cards issued by banks in foreign jurisdictions (including CH), but also arrangements involving corporations, partnerships, trusts and other entities. Their main focus is on the time after 31.12.98, but they are also interested in arrangements set up earlier.

WHAT BANKS SHOULD DO NOW
Banks should review
* marketing materials sent to clients,
* letters sent to clients,
* credit card arrangements enabling a client to make purchases in the US out of offshore funds, and
* cases where offshore companies, trusts and foundations have been set up for US persons.

Banks should be aware that clients may make something up about the bank, in order to fit within the conditions of the application.

Banks should make sure that they have clear policies in place prohibiting the sale of "financial arrangements" to US persons, unless tax planned (as we do).

GOVERNMENT EXHIBIT 26

Where a bank acts as trustee or member of the Board of foundation, the trustee/Board should start doing the IRS reporting required by US law, where a US person is the settlor/founder. The reporting should not be sent to the IRS, but to the client.

The bank should be able to demonstrate that, where certain bank employees have been active in setting up offshore structures for US persons, these employees have been asked to leave.

B&M say that immediate action is required in order to build up a defence against a possible future criminal case against the bank.

Regards,
Jon

Reeves Declaration
Exhibit 27

From: Zimmermann, Franz
Sent: Wednesday, October 30, 2002 3:03 PM
To: Luetolf, Dieter
Cc: Kaufmann, Carmen; Lulei, Gerald; Foelmi, Markus z.h.f.m.l.
Subject: RE: Minutes

Dear Dieter,

Many thanks for having run your draft minutes by us. While I agree that it accurately summarizes the gist of our discussion it evidences how sensitive things get when you are writing them down. In this vein, please find my comments directly in your text in Capital letters. Suggested deletions are in brackets,

I hope this further clarifies the situation.

Best regards,

Franz

Mark: I would appreciate if you could quickly do a sanity check on my statements. Please note that I am cognizant of the fact that handing account statements and executing amendments to a PM contract on US soil may be considered problematic by IRS people but I think my assessment follows our overall policy that we should not be more royal than the king. Thanks for your assistance keeping me out of trouble.

-----Original Message-----
From: Luetolf, Dieter
Sent: Dienstag, 29. Oktober 2002 10:45
To: Zimmermann, Franz; Lulei, Gerald
Cc: Kaufmann, Carmen
Subject: Minutes

Dear colleagues,

We have tried to outline the most important points of our discussions. Please confirm that you agree with these statements, or adjust accordingly.

Minutes of Meeting with Franz Zimmermann,Legal and Gerald Lulei,Compliance on October 25, 2002:

1. According to F. Zimmermann we are - from a QI Deemed Sales point of view - still allowed to visit clients in the US, hand out account statements, discuss Investment Strategy and even accept ("not frequent") (stock) SECURITIES orders IF THEY WERE DONE IN ISOLATED AND INFREQUENT CIRCUMSTANCES or decide on change of PM Strategies. This BEHAVIOR MAY however BE PROBLEMATIC UNDER (is not allowed under) SEC (compliance) RULES. UBS HAS FURTHER MADE THE POLICY DECISION NOT TO RELY ON THE "ONLY INFREQUENT" EXEMPTION.

2. F. Zimmermann considers it important THAT ANY CUSTOMER INSTRUCTIONS ARE PROPERLY AND ACCURATELY DOCUMENTED (for the bank to have a written agreement signed by the client when we), for instance change OF the PM Strategy,
--->even if this means SIGNING THE PM AMENDMENT) in the US. According to him, this -CONTRARY TO ACCEPTING SECURITIES INSTRUCTIONS STEMMING FROM US TERRITORY - does NOT raise any QI/deemed sales problems, but "only" SEC compliance.

3. Written information in Focus on the financial background of client is key to pass the Audit. "Inheritance" is not enough, especially if the

GOVERNMENT EXHIBIT 27

inheritance was recent. Moreover, for Numbered Accounts detailed information on the background of the client is required,
--->even if by providing this information anybody reading the Focus report might be able to guess who the account owner is numbered accounts). Initials can be mentioned, birth year (not exact date) can be input.

Best regards,
Dieter LUtolf

Reeves Declaration Exhibit 28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

08-60322 CASE NO. CR-COHN MAGISTRATE JUDGE BELTZER
18 U.S.C. § 371

UNITED STATES OF AMERICA

vs.

RAOUL WEIL,

Defendant.
_____/

INDICTMENT

The Grand Jury charges that:

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

1. The Internal Revenue Service ("IRS") was an agency of the United States Department of Treasury responsible for administering and enforcing the tax laws of the United States and collecting the taxes owed to the Treasury of the United States.

2. An entity identified as "Swiss Bank" was one of Switzerland's largest banks. Swiss Bank owned and operated banks, investment banks, and stock brokerage businesses throughout the world, also operating in the Southern District of Florida and elsewhere in the United States. Because of Swiss Bank's ownership of banks and investment brokerages in the United States, United States tax laws applied to Swiss Bank and to its United States clients.

3. Swiss Bank operated a cross-border banking business with United States clients ("United States cross-border business"). The United States cross-border business employed

GOVERNMENT EXHIBIT 28

approximately 60 private bankers and had offices in Geneva, Zurich, and Lugano, Switzerland. These private bankers frequently traveled to the United States to meet with and to conduct business with their United States clients.

4. The United States cross-border business provided private banking services to approximately 20,000 United States clients with assets worth approximately $20 billion. Approximately 17,000 of the 20,000 cross-border clients concealed their identities and the existence of their Swiss Bank accounts from the IRS. Many of these clients willfully failed to pay tax to the IRS on income earned on their Swiss Bank accounts. Swiss Bank assisted these United States clients conceal the income earned on Swiss Bank accounts by failing to report IRS Form 1099 information to the IRS. From 2002 through 2007, the United States cross-border business generated approximately $200 million a year in revenue for Swiss Bank.

The Conspirators

5. From 2002 through 2007, defendant RAOUL WEIL was head of Swiss Bank's wealth management business, which included the United States cross-border business and other businsses. As such, defendant RAOUL WEIL and others had the authority to expand, maintain, or discontinue the United States cross-border business. In July 2007, defendant RAOUL WEIL was promoted and became the Chief Executive Officer of a division that oversaw the United States cross-border business and world-wide private banking.

6. Some Swiss Bank's executives ("Executives") are unindicted co-conspirators not named as defendants herein. These Executives occupied positions at the highest levels of management within Swiss Bank, including positions on the committees that oversaw legal, compliance, tax, risk, and regulatory issues related to the United States cross-border business.

7. Some Swiss Bank's employees who managed the United States cross-border business ("Managers") are unindicted co-conspirators not named as defendants herein. These Managers were responsible for overseeing the United States cross-border business operations. These Managers were responsible for regulatory and compliance issues, as well as issues related to bankers' incentives and compensation. These Managers were also responsible for traveling to the United States to meet with Swiss Bank's wealthiest United States clients. These Managers reported directly to Executives, including defendant RAOUL WEIL.

8. Swiss Bank's employees who managed the bankers servicing the United States cross-border business ("Desk Heads") are unindicted co-conspirators not named as defendants herein. These Desk Heads exercised direct management over the day-to-day operations of the business. In addition to having management duties, Desk Heads traveled to the United States to conduct unlicensed banking and investment advisory activity for Swiss Bank's United States clients. These Desk Heads reported directly to Managers.

9. Swiss Bank private bankers who serviced the United States clients ("Bankers") are unindicted co-conspirators not named as defendants herein. These Bankers were not licensed to engage in banking and investment advisory activity in the United States. However, these Bankers routinely traveled to the United States to conduct unlicensed banking and investment advisory activity for Swiss Bank's United States clients. While in Switzerland, these Bankers routinely communicated with their clients in the United States about banking and investment advice. These Bankers reported directly to the Desk Heads. Swiss Bank Executives and Managers authorized and encouraged through incentives Bankers' activities with respect to their United States clients.

10. Some of Swiss Bank's 20,000 United States clients are unindicted co-conspirators not named as defendants herein. These United States clients knowingly concealed from the United States government, including the IRS, approximately $20 billion in assets held at Swiss Bank and willfully evaded United States income taxes owed on the income earned on these secret Swiss Bank accounts. United States clients were required to report and pay taxes to the IRS on income they earned throughout the world, including income earned from the Swiss Bank account.

COUNT ONE
(18 U.S.C. § 371)

11. The allegations contained in paragraphs 1 through 10 of the Introduction are re-alleged and incorporated herein.

12. From in or a time unknown to the Grand Jury and continuing up to and including the date of the return of this Indictment, in the Southern District of Florida, and elsewhere, the defendant,

RAOUL WEIL

together with his co-conspirators, unlawfully, willfully and knowingly, did combine, conspire, confederate and agree together and with each other to defraud the United States and an agency thereof, to wit, the Internal Revenue Service of the United States Department of Treasury in the ascertainment, computation, assessment and collection of federal income taxes.

OBJECT OF THE CONSPIRACY

13. It was a part and an object of the conspiracy that defendant RAOUL WEIL and his co-conspirators, would and did increase the profits of Swiss Bank by providing unlicensed and unregistered banking services and investment advice in the United States and other activities intended to conceal from the IRS the identities of Swiss Bank's United States clients, who willfully evaded their income tax obligations by, among other things, filing false income tax returns and failing to disclose the existence of their Swiss Bank account to the IRS.

MEANS AND METHODS OF THE CONSPIRACY

Among the means and methods by which defendant RAOUL WEIL and his co-conspirators would and did carry out the conspiracy were the following:

14. It was part of the conspiracy that defendant RAOUL WEIL, Executives, Managers, Desk Heads, and Bankers utilized nominee entities, encrypted laptops, numbered accounts, and other counter surveillance techniques to conceal the identities and offshore assets of United States clients from authorities in the United States.

15. It was part of the conspiracy that Swiss Bank expanded their business beyond the borders of Switzerland by purchasing a large United States stock brokerage firm. Executives at Swiss Bank voluntarily entered into an agreement, known as the Qualified Intermediary Agreement ("QI Agreement") with the IRS that required Swiss Bank to report to the United States income and other identifying information for its United States clients who held an interest in United States securities in an account at Swiss Bank. Further, this agreement required Swiss Bank to withhold taxes from United States clients who directed investment activities in foreign securities from the United States.

16. It was part of the conspiracy that defendant RAOUL WEIL, Executives, and Managers entered into the QI Agreement and represented to the IRS that Swiss Bank was in compliance with the terms of the QI Agreement, while knowing that the United States cross-border business, was not conducted in a manner which complied with the terms of the QI Agreement.

17. It was part of the conspiracy that defendant RAOUL WEIL, Executives, and Managers mandated that Desk Heads and Bankers increase the United States cross-border business, knowing that this mandate would cause Bankers and Desk Heads to have increased unlicensed contacts with the United States, in violation of United States law and the QI Agreement.

18. It was further part of the conspiracy that defendant RAOUL WEIL, Executives, and Managers, who referred to the United States cross-border business as "toxic waste" because they knew that it was not being conducted in a manner that complied with United States law and the QI Agreement, put in place monetary incentives that rewarded Desk Heads and Bankers who increased the United States cross-border business.

19. It was further part of the conspiracy that Managers, Desk Heads, and Bankers solicited new investments in the United States cross-border business by marketing Swiss bank secrecy to United States clients interested in attempting to evade United States income taxes, in particular by claiming that Swiss bank secrecy was impenetrable.

20. It was further part of the conspiracy that Managers, Desk Heads, and Bankers provided unlicensed and unregistered banking services and investment advice to United States clients in person while on travel to the United States and by mailings, email, and telephone calls to and from the United States.

21. It was further part of the conspiracy that when approached about the continuous unregistered and unlicensed contacts with the United States associated with the United States cross-border business, defendant RAOUL WEIL and other Executives would not implement effective restrictions on the United States cross-border business because the business was too profitable for Swiss Bank.

22. It was further part of the conspiracy that Managers, Desk Heads, and Bankers assisted United States clients in preparing IRS Forms W-8BEN that falsely and fraudulently stated that nominee offshore structures, and not the United States clients, were the beneficial owners of offshore bank and financial accounts maintained in foreign countries, including accounts in Switzerland at Swiss Bank.

23. It was further part of the conspiracy that some United States clients prepared and filed with the IRS income tax returns that falsely and fraudulently omitted income earned on their undeclared Swiss Bank account and that falsely and fraudulently reported that United States citizens did not have an interest in, or a signature or other authority over, financial accounts located in a foreign country.

24. It was further part of the conspiracy that the United States clients failed to file with the Department of Treasury a Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1, which would have disclosed the existence of and their interest in, or signature or other authority over, a financial account located in a foreign country.

OVERT ACTS

In furtherance of the conspiracy and to achieve the object and purpose thereof, at least one of the co-conspirators committed at least one of the following overt acts, among others, in the Southern District of Florida and elsewhere:

25. On or about July 6, 2000, Manager # 1 authorized Bankers to refer United States clients to outside lawyers and accountants to create offshore structures to conceal from the IRS United States clients' Swiss Bank accounts, while knowing that creating these structures constituted helping the United States clients commit tax evasion.

26. On or about July 14, 2000, Managers changed the wording on Swiss Bank Document 61393, Declaration for US Taxable Persons, from "I would like to avoid disclosure of my identity to the US IRS" to "I consent to the new tax regulations . . . ." after United States clients expressed fears that the form as originally drafted could be used as evidence against them for tax evasion.

27. On or about July 11, 2002, Manager # 3 and others instructed Bankers to tell United States clients who were contemplating transferring their assets to another offshore bank that Swiss Bank has the largest number of United States clients among all banks outside the United States, creates jobs in the United States, has better lobbying possibilities in the United States than any other foreign bank and would not be pressured by United States authorities to disclose the clients' identities.

28. On or about September 19, 2002, defendant RAOUL WEIL and other Executives on Swiss Bank's executive board knowingly failed to disclose to the IRS deficiencies in implementing Swiss Bank's requirements to report and withhold taxes for clients of the United States cross-border business that were discovered after the completion of an internal audit.

29. On or about September 26, 2002, Desk Head # 1 instructed Bankers that if they have unauthorized contact with United States clients in the United States, that the Bankers should not report the contact in Swiss Bank's internal computer system.

30. In or about December 2002, defendant RAOUL WEIL and other Executives authorized Manager # 2 and Manager # 3, to institute a temporary five month travel ban to the United States. The ban coincided with an IRS initiative relating to identifying holders of offshore credit cards.

31. On or about January 22, 2003, after being advised by outside lawyers to take immediate action in order to build a defense against a possible future criminal case brought against Swiss Bank, Manager # 2 instructed Manager # 3 to limit written communications relating to offshore structures created for United States clients and instructed Manager # 3 to begin issuing Form 1099 information to clients, but not to the IRS, for certain Swiss Bank accounts where Swiss Bank officials served as a manager for the offshore structures.

32. On or about January 24, 2003, Manager # 2 and Manager # 3 issued a form letter to United States clients reminding them that since at least 1939 Swiss Bank has been successful in concealing account holder identities from United States authorities and that even after Swiss Bank's presence in the United States recently increased after the purchase of a large United States brokerage firm, Swiss Bank was still dedicated to the protection of their identities.

33. On or about July 9, 2004, Swiss Bank represented to the IRS that its United States based operations had failed to provide Form 1099 information to the IRS, failed to withhold the appropriate tax when required to do so, and failed to properly document the owners of certain accounts, but failed to inform the IRS that the United States cross-border business continued to fail

to provide Form 1099 information to the IRS, continued to fail to withhold the appropriate tax when required to do so, and continued to fail to properly document the owners of certain accounts.

34. On or about August 17, 2004, Manager # 1 and Manager # 3, organized a meeting in Switzerland with outside lawyers and accountants to discuss the creation of structures and other vehicles for clients who wanted to conceal their Swiss Bank accounts and income derived therefrom tax authorities in the United States and Canada.

35. In or about September 2004, Desk Heads and Bankers received training in Switzerland on how to avoid detection by authorities when traveling in the United States on Swiss Bank business.

36. During calendar year 2004, approximately 32 Bankers traveled to the United States and met with United States clients approximately 3,800 times to provide unlicensed and unregistered banking services and investment advice relating to the clients' Swiss Bank account.

37. On or about April 15, 2005, United States client identified as I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2004 tax year, listing an address in Lighthouse Point, Florida that fraudulently omitted income earned from offshore assets and falsely represented that I.O. did not have an interest in, and signature and other authority over, financial accounts located in a foreign country.

38. On or about April 25, 2005, defendant RAOUL WEIL and other Executives instructed Managers, Desk Heads, and Bankers to grow the United States cross-border business.

39. In or about early December 2005, Desk Heads and Bankers solicited new business from existing and prospective United States clients at Art Basel Miami Beach in Miami Beach, Florida.

40. On or about March 31, 2006, Executive # 2 and other Executives, enacted restrictions that would have "little" or "some impact" on the profitability of the United States cross-border business.

41. In or about August 2006, defendant RAOUL WEIL and Executive # 1, refused to approve the recommendations of Managers # 2 and # 4 to wind down, sell, or spin off the United States cross-border business, as too costly and requiring public disclosures that would harm Swiss Bank.

42. On or about September 26, 2006, Desk Heads and Bankers were trained at Swiss Bank on how to conduct business discreetly by using mail that would not show Swiss Bank's name and address, by changing hotels while traveling, and by using encrypted laptop computers when traveling to the United States on Swiss Bank business and when meeting with United States clients.

All in violation of Title 18, United States Code, Section 371.

GRAND JURY FOREPERSON

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

KEVIN M. DOWNING
MICHAEL P. BEN'ARY
TRIAL ATTORNEYS

JEFFREY A. NEIMAN
ASSISTANT U.S. ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

vs.

RAOUL WEIL

Court Division: (Select One)

___ Miami ___ Key West
_X_ FTL ___ WPB___ FTP

CASE NO. _____

CERTIFICATE OF TRIAL ATTORNEY*

Superseding Case Information:
New Defendant(s) Yes ___ No ___
Number of New Defendants ___
Total number of counts ___

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No
List language and/or dialect _____

4. This case will take 7-10 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

(Check only one)			(Check only one)	
I	0 to 5 days	___	Petty	___
II	6 to 10 days	X	Minor	___
III	11 to 20 days	___	Misdem.	___
IV	21 to 60 days	___	Felony	X
V	61 days and over	___		

6. Has this case been previously filed in this District Court? (Yes or No) No
If yes:
Judge: _____ Case No. _____
(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No
If yes:
Magistrate Case No. _____
Related Miscellaneous numbers: U.S. v BIRKENFELD 08-60099-CR-Zloch
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____
Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? ___ Yes _X_ No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? ___ Yes _X_ No

Jeffrey A. Neiman
ASSISTANT UNITED STATES ATTORNEY
Court Bar No. 544469

*Penalty Sheet(s) attached

REV. 4/8/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
PENALTY SHEET

Defendant's Name: RAOUL WEIL No.: _____

Count #1:
Conspiracy; in violation of 18 U.S.C. §371

*Max Penalty: Five years' imprisonment; $100 special assessment; and $250,000 fine

Count # :

*Max Penalty:

Count # :

*Max Penalty:

Count # :

*Max Penalty:

Count # :

*Max Penalty:

Count # :

*Max Penalty:

Count # :

*Max Penalty:

Count # :

*Max Penalty:

Count # :

*Max Penalty:

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms or forfeitures that may be applicable.**

REV 12/12/96

Reeves Declaration Exhibit 29

ORIGINAL

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

SA CR 07 - 0227

UNITED STATES OF AMERICA, Plaintiff, v. IGOR M. OLENICOFF, Defendant.	No. SA CR 07- I N F O R M A T I O N [26 U.S.C. § 7206(1): Willful Filing of a False Tax Return]

The United States Attorney charges:

COUNT ONE

[26 U.S.C. § 7206(1)]

On or about April 15, 2003, in the Central District of California and elsewhere, defendant IGOR M. OLENICOFF, a resident of Laguna Beach, California, did willfully make and subscribe a 2002 U.S. Individual Income Tax Return, Form 1040, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which defendant did not believe this 2002 U.S. Individual Income Tax Return to be true and correct as to every material matter in that Schedule B Part III, Foreign Accounts and

BAS:bas

GOVERNMENT EXHIBIT 29

Trusts, Line 7a asked "At any time during 2002, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account?" to which said return falsely stated "NO," whereas, as defendant then and there well knew and believed, it was a false statement, as defendant had ownership, control, and signatory authority over financial accounts in England, Switzerland, the Bahamas, and Lichtenstein.

THOMAS P. O'BRIEN
United States Attorney

CHRISTINE C. EWELL
Assistant United States Attorney
Chief, Criminal Division

ROBB C. ADKINS
Assistant United States Attorney
Chief, Santa Ana Branch Office

Reeves Declaration Exhibit 30

THOMAS P. O'BRIEN
United States Attorney
WAYNE R. GROSS
Assistant United States Attorney
Chief, Santa Ana Branch Office
BRETT A. SAGEL (CBN: 243918)
Assistant United States Attorney
Ronald Reagan Federal Building
411 West Fourth Street, Suite 8000
Santa Ana, California 92701
Telephone: (714) 338-3598
Facsimile: (714) 338-3708
Email: Brett.Sagel@usdoj.gov

Attorney for Plaintiff
United States of America

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. IGOR M. OLENICOFF, Defendant.	SA CR No. 07-227-CJC PLEA AGREEMENT FOR DEFENDANT IGOR M. OLENICOFF

1. This constitutes the plea agreement between IGOR M. OLENICOFF ("defendant") and the United States Attorney's Office for the Central District of California ("the USAO") in the investigation of into tax violations regarding defendant and numerous entities related to defendant. This agreement is limited to the USAO and cannot bind any other federal, state or local prosecuting, administrative or regulatory authorities.

PLEA

2. Defendant gives up the right to indictment by a grand jury, waives venue, and agrees to plead guilty to the one-count

GOVERNMENT EXHIBIT 30

information in the form attached to this agreement or a substantially similar form.

NATURE OF THE OFFENSE

3. In order for defendant to be guilty of count one, which charges a violation of Title 26, United States Code, Section 7206(1), the following must be true: (1) The defendant made and subscribed a return, statement, or other document which was false as to a material matter; (2) The return, statement, or other document contained a written declaration that it was made under the penalties of perjury; (3) The defendant did not believe the return, statement, or other document to be true and correct as to every material matter; and (4) The defendant falsely subscribed to the return, statement, or other document willfully, with the specific intent to violate the law. Defendant admits that defendant is, in fact, guilty of this offense as described in count one of the information.

PENALTIES

4. The statutory maximum sentence that the Court can impose for a violation of Title 26, United States Code, Section 7206(1) is: 3 years imprisonment; a 3-year period of supervised release; a fine of $100,000 or twice the gross gain or gross loss resulting from the offense, whichever is greatest; and a mandatory special assessment of $100. The Court may order defendant to pay any additional taxes, interest and penalties that defendant owes to the United States. Also, the Court must order defendant to pay the costs of prosecution, which may be in

addition to the statutory maximum fine stated above.

5. Supervised release is a period of time following imprisonment during which defendant will be subject to various restrictions and requirements. Defendant understands that if defendant violates one or more of the conditions of any supervised release imposed, defendant may be returned to prison for all or part of the term of supervised release, which could result in defendant serving a total term of imprisonment greater than the statutory maximum stated above.

6. Defendant also understands that, by pleading guilty, defendant may be giving up valuable government benefits and valuable civic rights, such as the right to vote, the right to possess a firearm, the right to hold office, and the right to serve on a jury.

7. Defendant further understands that the conviction in this case may subject defendant to various collateral consequences, including but not limited to, deportation, revocation of probation, parole, or supervised release in another case, and suspension or revocation of a professional license. Defendant understands that unanticipated collateral consequences will not serve as grounds to withdraw defendant's guilty plea.

FACTUAL BASIS

8. Defendant and the USAO agree and stipulate to the statement of facts provided below. This statement of facts includes facts sufficient to support a plea of guilty to the charge described in this agreement and to establish the

sentencing guideline factors set forth in paragraph 12 below. It is not meant to be a complete recitation of all facts relevant to the underlying criminal conduct or all facts known to defendant that relate to that conduct.

Defendant is the President and Owner of Olen Properties Corporation (hereinafter "OPC"). During the years 1992 through 2004, defendant owned, controlled, and had signatory authority over financial accounts outside of the United States. At least as early as August 1997, defendant listed himself as chairman of Sovereign Bancorp Ltd. (hereinafter "SBL") and President and Director of National Depository Corporation, Ltd. (hereinafter "NDC") on signature cards for Barclays Bank in the Bahamas, which also listed defendant as an authorized signatory on these accounts. Defendant also had signatory authority and controlled several financial accounts with Solomon Smith Barney, which were held in Solomon Smith Barney's office in London, England. Defendant's accounts in Solomon Smith Barney's England offices included accounts in the names of SBL, NDC, Guardian Guarantee Company, Ltd. (hereinafter "GGCL"), Continental Realty Funding Corporation (hereinafter "CRFC"), and Swiss Finance Corporation. Defendant opened several accounts at UBS, formerly known as Union Bank of Switzerland (hereinafter "UBS") in Switzerland, in which defendant had signatory authority and listed himself as Vice President and Director of accounts under the name of GGCL and New Guardian Bancorp APS (hereinafter "NGB"). In addition, defendant also had signatory authority and control over several financial accounts at Neue Bank in Liechtenstein, including an account in the name of NGB.

Defendant directed and authorized transactions from his off-shore financial accounts, including, but not limited to the following transactions. On or about March 9, 1992, defendant transferred approximately $61,000,000 from an OPC account at First Interstate Bank in Newport Beach, California, to a Bank of Montreal account in Canada under the name of NDC. On or about October 5, 1998, defendant directed Solomon Smith Barney to transfer approximately $40,000,000 from an SBL account at Solomon Smith Barney (England) to an SBL account at Barclay's Bank (Bahamas). On or about June 4, 2001, defendant directed Solomon Smith Barney to transfer approximately $17,000,000, $43,000,000, and $58,000,000 from CRFC, NDC, and SBL accounts, respectively, at Solomon Smith Barney (England) to NDC and SBL accounts at Barclay's Bank (Bahamas). On or about December 10, 2001, defendant directed Barclay's Bank to transfer approximately $89,000,000 from a GGCL account at Barclay's Bank (Bahamas) to open the GGCL account at UBS (Switzerland). On or about February 27, 2002, defendant directed Solomon Smith Barney to transfer approximately $38,000,000 from CRFC, NDC, and CRFC accounts at

Solomon Smith Barney (England) to an GGCL account at Barclay's Bank (Bahamas).

For the calendar years 1998 through 2004, defendant filed his United States Individual Income Tax Returns (hereinafter "Form 1040") with the Internal Revenue Service for the respective tax years. Defendant signed his 1998, 1999, 2000, 2001, 2002, 2003, and 2004 Form 1040s under penalties of perjury. Defendant attached a Schedule B, Interest and Ordinary Dividends, to each of his Form 1040s for tax years 1998 through 2004. Each of the Form 1040s that defendant filed included Part III of Schedule B, Foreign Accounts and Trusts, whereby the Internal Revenue Service asked on Line 7a, "At any time during [calendar year], did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account?" Line 7b stated, "If 'yes,' enter the name of the foreign country." Lines 7a and 7b of Part III of Schedule B attached to the Form 1040s called for material information in that the requested information is necessary for a correct computation of the tax due and owing and has a natural tendency to influence or impede the Internal Revenue Service in ascertaining the correctness of the tax due and owing of the taxpayer. On each of the 1998 through 2004 Form 1040s, defendant falsely answered "No" to line 7a and left the space blank next to line 7b, even though, as he then well knew and understood, he had an interest in, signatory authority, and other authority over financial accounts in foreign countries during these years.

On or about April 15, 2003, in the Central District of California and elsewhere, defendant, a resident of Laguna Beach, California, did willfully make and subscribe a 2002 U.S. Individual Income Tax Return, Form 1040, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which defendant did not believe this 2002 U.S. Individual Income Tax Return to be true and correct as to every material matter in that Schedule B Part III, Foreign Accounts and Trusts, Line 7a asked "At any time during 2002, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account?" to which said return falsely stated "NO," whereas, as defendant then and there well knew and believed, was a false statement, as defendant had ownership, control, and signatory authority over financial accounts in England, Switzerland, the Bahamas, and Liechtenstein. When defendant signed his 2002 Form 1040, defendant knew that it contained false information as to a material matter, and in filing the false 2002 Form 1040, defendant acted willfully.

WAIVER OF CONSTITUTIONAL RIGHTS

9. By pleading guilty, defendant gives up the following rights:

a) The right to persist in a plea of not guilty.

b) The right to a speedy and public trial by jury.

c) The right to the assistance of legal counsel at trial, including the right to have the Court appoint counsel for defendant for the purpose of representation at trial. (In this regard, defendant understands that, despite his plea of guilty, he retains the right to be represented by counsel - and, if necessary, to have the court appoint counsel if defendant cannot afford counsel - at every other stage of the proceedings.)

d) The right to be presumed innocent and to have the burden of proof placed on the government to prove defendant guilty beyond a reasonable doubt.

e) The right to confront and cross-examine witnesses against defendant.

f) The right, if defendant wished, to testify on defendant's own behalf and present evidence in opposition to the charges, including the right to call witnesses and to subpoena those witnesses to testify.

g) The right not to be compelled to testify, and, if defendant chose not to testify or present evidence, to have that choice not be used against defendant.

By pleading guilty, defendant also gives up any and all rights to pursue any affirmative defenses, Fourth Amendment or

Fifth Amendment claims, and other pretrial motions that have been filed or could be filed.

WAIVER OF DNA TESTING

10. Defendant has been advised that the government has in its possession the following items of physical evidence that could be subjected to DNA testing:

Documents obtained via search warrants

Defendant understands that the government does not intend to conduct DNA testing of any of these items. Defendant understands that, before entering a guilty plea pursuant to this agreement, defendant could request DNA testing of evidence in this case. Defendant further understands that, with respect to the offense to which defendant is pleading guilty pursuant to this agreement, defendant would have the right to request DNA testing of evidence after conviction under the conditions specified in 18 U.S.C. § 3600. Knowing and understanding defendant's right to request DNA testing, defendant knowingly and voluntarily gives up that right with respect to both the specific items listed above and any other items of evidence there may be in this case that might be amenable to DNA testing. Defendant understands and acknowledges that by giving up this right, defendant is giving up any ability to request DNA testing of evidence in this case in the current proceeding, in any proceeding after conviction under 18 U.S.C. § 3600, and in any other proceeding of any type. Defendant further understands and acknowledges that by giving up this right, defendant will never have another opportunity to have the

evidence in this case, whether or not listed above, submitted for DNA testing, or to employ the results of DNA testing to support a claim that defendant is innocent of the offense to which defendant is pleading guilty.

SENTENCING FACTORS

11. Defendant understands that the Court is required to consider the United States Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines") among other factors in determining defendant's sentence. Defendant understands, however, that the Sentencing Guidelines are only advisory, and that after considering the Sentencing Guidelines, the Court may be free to exercise its discretion to impose any reasonable sentence up to the maximum set by statute for the crimes of conviction.

12. Defendant and the USAO agree and stipulate to the following applicable sentencing guideline factors:

Base Offense Level :	6	[U.S.S.G. § 2T1.1(a)(2)]
Acceptance of Responsibility:	-2	[U.S.S.G. § 3E1.1(a)]

Defendant and the USAO agree not to seek, argue, or suggest in any way, either orally or in writing, that any other specific offense characteristics, adjustments or departures, from either the applicable Offense Level or Criminal History Category, be imposed. If, however, after signing this agreement but prior to sentencing, defendant were to commit an act, or the USAO were to discover a previously undiscovered act committed by defendant prior to signing this agreement, which act, in the judgment of

the USAO, constituted obstruction of justice within the meaning of U.S.S.G. § 3C1.1, the USAO would be free to seek the enhancement set forth in that section.

13. There is no agreement as to defendant's criminal history or criminal history category.

14. The stipulations in this agreement do not bind either the United States Probation Office or the Court. Both defendant and the USAO are free to: (a) supplement the facts by supplying relevant information to the United States Probation Office and the Court; (b) correct any and all factual misstatements relating to the calculation of the sentence; and (c) argue on appeal and collateral review that the Court's sentencing guidelines calculations are not error, although each party agrees to maintain its view that the calculations in paragraph 12 are consistent with the facts of this case.

DEFENDANT'S OBLIGATIONS

15. Defendant agrees that he will:

a) Waive Indictment by Grand Jury, waive venue, and Plead guilty as set forth in this agreement.

b) Not knowingly and willfully fail to abide by all sentencing stipulations contained in this agreement.

c) Not knowingly and willfully fail to: (i) appear as ordered for all court appearances; (ii) surrender as ordered for service of sentence; (iii) obey all conditions of any bond; and (iv) obey any other ongoing court order in this matter.

d) Not commit any crime; however, offenses which would be excluded for sentencing purposes under U.S.S.G. § 4A1.2(c) are not within the scope of this agreement.

e) Not knowingly and willfully fail to be truthful at all times with Pretrial Services, the U.S. Probation Office, and the Court.

f) To fill out and deliver to the USAO, prior to sentencing, a completed financial statement listing defendant's assets on a form provided by the United States Attorney's Office.

g) Prior to sentencing, abandon his claim for a refund on the 1999 Corporate Return for Olen Properties Corporation ("OPC") seeking a refund based on interest income "paid" from OPC to Sovereign Bancorp Ltd. ("SBL"), another corporation controlled by defendant.

h) Prior to sentencing, defendant will move all money held in foreign financial accounts, including bank and securities accounts, which defendant has an interest in, signature authority, or any other authority, to financial accounts within the United States. Defendant further agrees that during the period of supervised release or probation, that defendant will not have any interest in, signature authority, or any other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account.

i) Cooperate with the Internal Revenue Service in the determination of defendant's civil tax liability and the tax liability of corporations owned and/or controlled by defendant

for the Tax Years 1998-2004. Defendant agrees:

1) That defendant will, prior to the time of sentencing, enter into closing agreements for the years 1998 through 2004 for his Individual Income Tax Returns, correctly reporting unreported income and/or correcting improper deductions and credits, and will, if requested to do so by the Internal Revenue Service, provide the Internal Revenue Service with information regarding the years covered by the returns, and will pay at sentencing all additional taxes, and will pay promptly all penalties and interest assessed by the Internal Revenue Service to be owing as a result of any computational errors.

2) That nothing in this agreement forecloses or limits the ability of the Internal Revenue Service to examine and make adjustments to defendant's closing agreements.

3) That defendant will not, after entering into the closing agreements, file any claim for refund of taxes, penalties, or interest for amounts attributable to the closing agreements filed in connection with this plea agreement.

4) That defendant is liable for the fraud penalty imposed by the Internal Revenue Code, 26 U.S.C. § 6663, on the understatement of civil tax liability for Tax Years 1998-2004.

5) To give up any and all objections that could be asserted to the Examination Division of the Internal Revenue Service receiving materials or information obtained during the criminal investigation of this matter, including materials and information obtained through the execution of search warrants or

through grand jury subpoenas.

THE USAO'S OBLIGATIONS

16. If defendant complies fully with all defendant's obligations under this agreement, the USAO agrees:

a) To abide by all sentencing stipulations contained in this agreement.

b) At the time of sentencing, provided that defendant demonstrates an acceptance of responsibility for the offense up to and including the time of sentencing, to recommend a two-level reduction in the applicable sentencing guideline offense level, pursuant to U.S.S.G. § 3E1.1, and to recommend and, if necessary, move for an additional one-level reduction if available under that section.

c) Not to further prosecute defendant for violations arising out of defendant's conduct described in the stipulated factual basis set forth in paragraph 8 above or tax violations associated with moneys transferred to and held in foreign bank accounts from 1998 through 2004, or any other conduct known to the Government at the time this agreement is signed by defendant. Defendant understands that the USAO is free to prosecute defendant for any other unlawful past conduct or any unlawful conduct that occurs after the date of this agreement. Defendant agrees that at the time of sentencing the Court may consider the uncharged conduct in determining the applicable Sentencing Guidelines range, where the sentence should fall within that range, the propriety and extent of any departure from that range,

and the determination of the sentence to be imposed after consideration of the sentencing guidelines and all other relevant factors.

BREACH OF AGREEMENT

17. If defendant, at any time between the execution of this agreement and defendant's sentencing on a non-custodial sentence or surrender for service on a custodial sentence, knowingly violates or fails to perform any of defendant's obligations under this agreement ("a breach"), the USAO may declare this agreement breached. If the USAO declares this agreement breached, and the Court finds such a breach to have occurred, defendant will not be able to withdraw defendant's guilty plea, and the USAO will be relieved of all of its obligations under this agreement.

18. Following a knowing and willful breach of this agreement by defendant, should the USAO elect to pursue any charge or any civil or administrative action that was either dismissed or not filed as a result of this agreement, then:

a) Defendant agrees that any applicable statute of limitations is tolled between the date of defendant's signing of this agreement and the commencement of any such prosecution or action.

b) Defendant gives up all defenses based on the statute of limitations, any claim of preindictment delay, or any speedy trial claim with respect to any such prosecution or action, except to the extent that such defenses existed as of the date of defendant's signing of this agreement.

c) Defendant agrees that: i) any statements made by defendant, under oath, at the guilty plea hearing; ii) the stipulated factual basis statement in this agreement; and iii) any evidence derived from such statements, are admissible against defendant in any future prosecution of defendant, and defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, or any other federal rule, that the statements or any evidence derived from any statements should be suppressed or are inadmissible.

LIMITED MUTUAL WAIVER OF APPEAL AND COLLATERAL ATTACK

19. Defendant gives up the right to appeal any sentence imposed by the Court, and the manner in which the sentence is determined, provided that (a) the sentence is within the statutory maximum specified above and is constitutional, (b) the Court in determining the applicable guideline range does not depart upward in offense level or criminal history category and determines that the total offense level is 4 or below, and (c) the Court imposes a sentence within or below the range corresponding to the determined total offense level and criminal history category. Defendant also gives up any right to bring a post-conviction collateral attack on the conviction or sentence, except a post-conviction collateral attack based on a claim of ineffective assistance of counsel, a claim of newly discovered evidence, or an explicitly retroactive change in the applicable Sentencing Guidelines, sentencing statutes, or statutes of

conviction. Notwithstanding the foregoing, defendant retains the ability to appeal the conditions of probation or supervised release imposed by the court, with the exception of the following: standard conditions set forth in district court General Orders 318 and 01-05; the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

20. The USAO gives up its right to appeal the sentence, provided that (a) the Court in determining the applicable guideline range does not depart downward in offense level or criminal history category, (b) the Court determines that the total offense level is 4 or above, and (c) the Court imposes a sentence within or above the range corresponding to the determined total offense level and criminal history category.

COURT NOT A PARTY

21. The Court is not a party to this agreement and need not accept any of the USAO's sentencing recommendations or the parties' stipulations. Even if the Court ignores any sentencing recommendation, finds facts or reaches conclusions different from any stipulation, and/or imposes any sentence up to the maximum established by statute, defendant cannot, for that reason, withdraw defendant's guilty plea, and defendant will remain bound to fulfill all defendant's obligations under this agreement. No one - not the prosecutor, defendant's attorney, or the Court - can make a binding prediction or promise regarding the sentence defendant will receive, except that it will be within the

statutory maximum.

NO ADDITIONAL AGREEMENTS

22. Except as set forth herein, there are no promises, understandings or agreements between the USAO and defendant or defendant's counsel. Nor may any additional agreement, understanding or condition be entered into unless in a writing signed by all parties or on the record in court.

PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

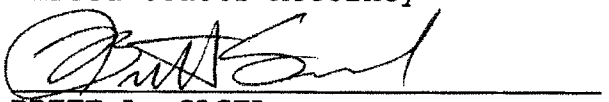
23. The parties agree and stipulate that this Agreement will be considered part of the record of defendant's guilty plea hearing as if the entire Agreement had been read into the record of the proceeding.

This agreement is effective upon signature by defendant and an Assistant United States Attorney.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF CALIFORNIA

THOMAS P. O'BRIEN
United States Attorney



BRETT A. SAGEL
Assistant United States Attorney

10/29/07
Date

I have read this agreement and carefully discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. My attorney has advised me of my rights, of possible defenses, of the

Sentencing Guideline provisions, and of the consequences of entering into this agreement. No promises or inducements have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. Finally, I am satisfied with the representation of my attorney in this matter.

IGOR M. OLENICOFF
Defendant

10/17/07
Date

I am IGOR M. OLENICOFF's attorney. I have carefully discussed every part of this agreement with my client. Further, I have fully advised my client of his/her rights, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this agreement. To my knowledge, my client's decision to enter into this agreement is an informed and voluntary one.

EDWARD M. ROBBINS, JR.
Counsel for Defendant
IGOR M. OLENICOFF

10/17/07
Date

Reeves Declaration
Exhibit 31

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-60099
18 U.S.C. § 371

CR-ZLOCH

UNITED STATES OF AMERICA

vs.

MAGISTRATE JUDGE SNOW

BRADLEY BIRKENFELD and
MARIO STAGGL,

Defendants.
_____/

FILED by ___ D.C.
2008 APR 10 PM 1:22
CLERK U.S. DIST. CT.
S.D. OF FLA.

INDICTMENT

The Grand Jury charges that:

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

1. The Internal Revenue Service ("IRS") was an agency of the United States Department of Treasury responsible for administering and enforcing the tax laws of the United States and collecting the taxes owed to the Treasury of the United States by its citizens.

The Conspirators

2. Defendant BRADLEY BIRKENFELD is a United States citizen born and educated in the United States. Defendant BRADLEY BIRKENFELD has resided in Switzerland since 1996, and worked for two of the largest Swiss banks and the Swiss branch of a large bank based in London, England. From 2001 through 2006, defendant BRADLEY BIRKENFELD worked as a director in the private banking division of a Swiss bank ("the Swiss Bank"), which also owns and operates banks, investment banks and stock brokerage business throughout the

GOVERNMENT EXHIBIT
31

United States. Defendant BRADLEY BIRKENFELD marketed Swiss banking services to wealthy United States clients. After leaving the Swiss Bank in 2006, defendant BRADLEY BIRKENFELD continued to provide off-shore banking services to United States clients through a Swiss corporation that has offices in Miami, Florida.

3. Defendant MARIO STAGGL resides in Liechtenstein, where he owns and operates a trust company, New Haven Trust Company Ltd. During the period 2001 through the present, defendant MARIO STAGGL devised, marketed and implemented tax evasion schemes for United States clients. Defendant MARIO STAGGL's United States tax evasion schemes utilized Liechtenstein nominee entities, Liechtenstein banks, and Danish shell companies.

4. One of the clients that defendants BRADLEY BIRKENFELD and MARIO STAGGL provided services to was a billionaire United States real estate developer (hereinafter identified as "I.O."), an unindicted co-conspirator not named as a defendant herein, who maintained residences and operated his business in Southern Florida and in Southern California. As described below, I.O. utilized the services of defendants BRADLEY BIRKENFELD and MARIO STAGGL to evade United States income taxes on the income earned on approximately $200,000,000 of assets maintained in secret bank accounts in Switzerland and Lichtenstein.

The Tax Fraud Scheme

5. In 2001 the Swiss Bank voluntarily entered into a Qualified Intermediary agreement with the Internal Revenue Service pursuant to which the Swiss Bank agreed to identify and document any customers who received reportable United States source income. In accordance with IRS requirements, the Swiss Bank agreed to have its customers fill out IRS Forms W-8BEN, which require foreign beneficial owners of bank accounts to be identified, and

IRS Forms W-9, which require United States beneficial owners of bank accounts to be identified. This Qualified Intermediary agreement was a major departure from historical Swiss bank secrecy laws under which Swiss banks concealed bank information for United States clients from the IRS. The Swiss Bank further agreed to issue IRS Forms 1099 to United States customers for United States source payments of dividends, interest, rents, royalties and other fixed or determinable income paid into the United States customers' off-shore bank accounts and file the Form 1099 information with the IRS. As a result of this agreement, the Swiss Bank was able to hold itself out as a Qualified Intermediary and claim benefits as a Qualified Intermediary. At all relevant times to this indictment, the Swiss Bank represented to the IRS that it had continued to honor this Qualified Intermediary agreement.

6. During the period from at least in or about 2001 through the date of this indictment, defendants BRADLEY BIRKENFELD and MARIO STAGGL, and others known and unknown to the Grand Jury participated in a scheme to defraud the IRS by falsifying Swiss bank documents, by falsifying IRS Forms W-8BEN, by failing to prepare IRS Forms W-9, by setting up nominee entities, by failing to issue IRS Forms 1099, and by failing to comply with the terms of the Qualified Intermediary Agreement with the IRS in order to conceal from the IRS United States source income paid into Swiss bank accounts beneficially owned by United States taxpayers.

COUNT ONE
(18 U.S.C. § 371)

7. The allegations contained in paragraphs 1 through 6 of the Introduction are realleged and incorporated herein.

8. From in or about 2001, the exact date being unknown to the Grand Jury, and continuing up to and including the date of this indictment, in the Southern District of Florida and elsewhere, the defendants,

BRADLEY BIRKENFELD, and
MARIO STAGGL,

together with others, known and unknown to the Grand Jury, including I.O., who is not named as a defendant herein, unlawfully, willfully and knowingly, did combine, conspire, confederate and agree together and with each other to defraud the United States and an agency thereof, to wit, the Internal Revenue Service of the United States Department of Treasury, in violation of Title 18, United States Code, Section 371.

OBJECT OF THE CONSPIRACY

9. It was a part and an object of the conspiracy that defendants BRADLEY BIRKENFELD and MARIO STAGGL and their co-conspirators, including I.O., would and did defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful governmental functions of the IRS in the ascertainment, computation, assessment and collection of United States income taxes.

MEANS AND METHODS OF THE CONSPIRACY

Among the means and methods by which defendants BRADLEY BIRKENFELD and MARIO STAGGL and their co-conspirators would and did carry out the conspiracy were the following:

10. It was part of the conspiracy that defendants BRADLEY BIRKENFELD, MARIO STAGGL and others would and did market the advantages of Swiss and Liechtenstein bank secrecy to wealthy United States clients interested in attempting to evade United States income taxes, in particular by claiming that Swiss and Liechtenstein bank secrecy was impenetrable.

11. It was further part of the conspiracy that defendants BRADLEY BIRKENFELD, MARIO STAGGL, and others would and did travel to the United States to market investments including United States securities to United States clients which they were not licensed to market. The defendants BRADLEY BIRKENFELD, MARIO STAGGL, and others would and did market these same investments to United States clients from Switzerland, Liechtenstein, and elsewhere via mailing, emails, and telephone calls to and from the United States.

12. It was further part of the conspiracy that defendants BRADLEY BIRKENFELD, MARIO STAGGL and others would and did travel to the United States to conduct banking with United States clients. The defendants BRADLEY BIRKENFELD, MARIO STAGGL, and others would and did conduct banking with United States clients from Switzerland, Liechtenstein, and elsewhere via mailings, emails, and telephone calls to and from the United States.

13. It was further part of the conspiracy that defendants BRADLEY BIRKENFELD, MARIO STAGGL and others would and did travel to the United States to solicit United States

clients to utilize Swiss bank credit cards that they claimed could not be discovered by United States authorities to United States clients. The defendants BRADLEY BIRKENFELD, MARIO STAGGL, and others would and did solicit and sell these same credit cards to United States clients from Switzerland, Liechtenstein, and elsewhere via mailings, email and telephone calls to and from the United States.

14. It was further part of the conspiracy that defendants BRADLEY BIRKENFELD, MARIO STAGGL and others would and did prepare Swiss and Liechtenstein bank account applications, and IRS Forms W-8BEN, which falsely and fraudulently concealed that United States Taxpayers were the beneficial owners of offshore bank and financial accounts maintained in foreign countries, including Switzerland and Lichtenstein.

15. It was further part of the conspiracy that defendants BRADLEY BIRKENFELD, MARIO STAGGL and others would and did cause shell companies to be set up and used as the nominee owners for the Swiss Bank and Liechtenstein bank accounts in order to conceal the United States citizen's beneficial ownership of the bank accounts.

16. It was further part of the conspiracy that defendants BRADLEY BIRKENFELD, MARIO STAGGL and others would and did advise United States clients to destroy all offshore banking records existing in the United States.

17. It was further part of the conspiracy that defendants BRADLEY BIRKENFELD, MARIO STAGGL and others would and did cause to be prepared and filed with the IRS income tax returns that falsely and fraudulently omitted income earned by United States clients from their Swiss bank and Liechtenstein bank accounts.

18. It was further part of the conspiracy that defendants BRADLEY BIRKENFELD,

MARIO STAGGL and others would and did cause to be prepared and filed with the IRS income tax returns that falsely and fraudulently reported that United States clients did not have an interest in, and a signature and other authority over, financial accounts located in a foreign country.

OVERT ACTS

In furtherance of the conspiracy and to effect the illegal objects thereof, defendants BRADLEY BIRKENFELD, MARIO STAGGL and their co-conspirators, including I.O., committed the following overt acts, among others, in the Southern District of Florida and elsewhere:

19. On or about June 18, 2001, defendant BRADLEY BIRKENFELD caused to be sent bank account opening documents from the Swiss branch of a large bank based in London via Federal Express from Geneva, Switzerland to the California corporate headquarters of I.O., including an IRS Form W-9, Request for Taxpayer Identification Number and Certification.

20. On or about June 21, 2001, I.O. caused to be sent completed bank account opening documents for an account at the Swiss branch of a large bank based in London to defendant BRADLEY BIRKENFELD, including a Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding that falsely and fraudulently claimed that the beneficial owner of the newly opened account was a shell corporation located in the Bahamas.

21. On or about July 26, 2001, defendant BRADLEY BIRKENFELD caused to be sent an email to I.O. and others that the large bank based in London was terminating North American clients, travel and resources, and that his new employer, the Swiss Bank, had a superior network,

product range and management, and had recently acquired a large United States securities brokerage house in order to enhance United States investment expertise.

22. On or about September 13, 2001, defendant MARIO STAGGL caused to be sent from Vaduz, Liechtenstein to I.O. at an address in the United States promotional materials that marketed the use of Liechtenstein trusts, foundations and other entities to evade United States and Swiss tax.

23. On or about October 19, 2001, defendant BRADLEY BIRKENFELD caused to be sent via facsimile to I.O. at a United States facsimile number Swiss bank account opening documents from the Swiss Bank, including a form entitled "Verification of the beneficial owner's identity." This form, executed by I.O., falsely and fraudulently stated that I.O. was not the beneficial owner, and that a nominee Bahamian corporation was beneficial owner of the account. The application further listed I.O. as a signatory to the account.

24. In or about November 2001, I.O. traveled from the United States to Geneva, Switzerland to meet with defendant MARIO STAGGL regarding setting up Denmark and Liechtenstein entities to conceal I.O's ownership of his off-shore assets.

25. On or about December 4, 2001, defendant MARIO STAGGL recommended to I.O. that in order to further conceal I.O.'s ownership of off-shore assets, I.O. should set up an entity in the British Virgin Islands, Panama or Gibraltar that "would lead to another 'safety break' in a tax and anonymity aspect."

26. On or about December 19, 2001, defendant MARIO STAGGL caused to be executed a "Letter of Intent," which stated that New Haven Trust Company Limited, trustee of The Landmark Settlement, intended to hold the trust property for the benefit of I.O., and, after his

demise, for his children.

27. On December 19, 2001, in response to a request from I.O. for the address, fax and telephone number of the Danish holding companies, defendant MARIO STAGGL caused to be sent an email to I.O. that stated there was no need for an address, fax, and telephone number for the Danish holding companies because, "...we do not anticipate any contact from third parties what so ever."

28. On or about December 17, 2001, I.O. caused to be wire transferred approximately $89.4 million from the Bahamas branch of the large bank based in London bank account to an account at the Swiss Bank.

29. On or about March 13, 2002, defendant BRADLEY BIRKENFELD caused to be sent a facsimile to I.O. at a United States facsimile number listing $15 million of bonds that an investment manager at the Swiss Bank had purchased for I.O.

30. On or about March 25, 2002, I.O. caused to be sent a facsimile from the United States to defendant BRADLEY BIRKENFELD in Switzerland, authorizing defendant BRADLEY BIRKENFELD to issue five credit cards from the Swiss Bank to I.O. and others.

31. On or about April 6, 2002, I.O. caused to be sent a letter from the United States to defendant BRADLEY BIRKENFELD in Switzerland authorizing the wire transfer of $80 million from one account at the Swiss Bank to another account at the Swiss Bank.

32. On or about April 15, 2002, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2001 tax year, listing his address as Southern California that fraudulently omitted income earned from off-shore assets and falsely represented that I.O did not have an interest in, and a signature and other authority over, financial accounts located in a

foreign country.

33. On or about April 23, 2002, defendant MARIO STAGGL caused to be sent an email to I.O. in the United States with instructions for I.O. to transfer a portfolio, worth approximately $60 million, containing United States securities from a brokerage house in London to an account in the name of a Danish shell corporation at a Liechtenstein bank.

34. On or about April 25, 2002, an unindicted co-conspirator caused to be sent an email to I.O. in the United States, with a copy to defendant MARIO STAGGL, that recommended that I.O. should set up United Kingdom companies to act as nominee shareholders. As stated in the email, "... the partners appear to be U.K. companies and Liechtenstein does not appear to be connected.... The role of the U.K. companies is simply to act as nominee shareholders."

35. On March 25, 2002, I.O. caused to be sent a facsimile from the United States authorizing defendant BRADLEY BIRKENFELD in Switzerland to wire transfer $39 million from one account at the Swiss Bank to another account at the Swiss Bank.

36. On or about May 5, 2002, I.O. caused to be sent an email from the United States to defendant BRADLEY BIRKENFELD and MARIO STAGGL stating that he was concerned about the security of some of his Liechtenstein accounts and was considering becoming a signatory to these accounts.

37. On or about May 7, 2002, defendant MARIO STAGGL caused to be sent a reply email to the United States advising I.O. not to put his name on any Liechtenstein accounts because doing so could "jeopardize the structure," and reminded I.O. that he had executed blank

account signature cards that defendant MARIO STAGGL could use.

38. On or about April 15, 2003, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2002 tax year, listing his address as Sanctuary Cove, Florida that fraudulently omitted income earned from off-shore assets and falsely represented that I.O. did not have an interest in, and a signature and other authority over, financial accounts located in a foreign country.

39. On or about May 19, 2003, defendant MARIO STAGGL caused to be sent an email to I.O. in the United States, with a copy to defendant BRADLEY BIRKENFELD, that stated that defendant MARIO STAGGL's lawyers in Gibraltar told him "that everthing is now in order to proceed with the application to transfer ownership"of I.O.'s 147 foot yacht to a holding company in Gibraltar..

40. On or about March 24 and March 25, 2004, defendant BRADLEY BIRKENFELD traveled to the Southern District of Florida to meet with I.O. and a banker from the Swiss Bank's New York branch in order to solicit I.O. to take out real estate loans with the Swiss Bank using his undeclared off-shore assets as collateral.

41. On or about April 15, 2004, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2003 tax year, listing his address as Lighthouse Point, Florida that fraudulently omitted income earned from off-shore assets and falsely represented that I.O. did not have an interest in, and a signature and other authority over, financial accounts located in a foreign country.

42. On or about April 15, 2005, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2004 tax year, listing an address in Lighthouse Point, Florida that

fraudulently omitted income earned from off-shore assets and falsely represented that I.O. did not have an interest in, and a signature and other authority over, financial accounts located in a foreign country.

43. On or about June 12, 2005, defendants BRADLEY BIRKENFELD and MARIO STAGGL met with I.O. at a Liechtenstein bank and advised him to transfer all of his assets held by the Swiss Bank to a Liechtenstein bank because Liechtenstein had better bank secrecy laws than Switzerland.

All in violation of Title 18, United States Code, Section 371.

A TRUE BILL

_____
FOREPERSON

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

KEVIN DOWNING, SENIOR TRIAL ATTORNEY
MICHAEL P. BEN'ARY, TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE, TAX DIVISION

JEFFREY A. NEIMAN
ASSISTANT UNITED STATES ATTORNEYS